



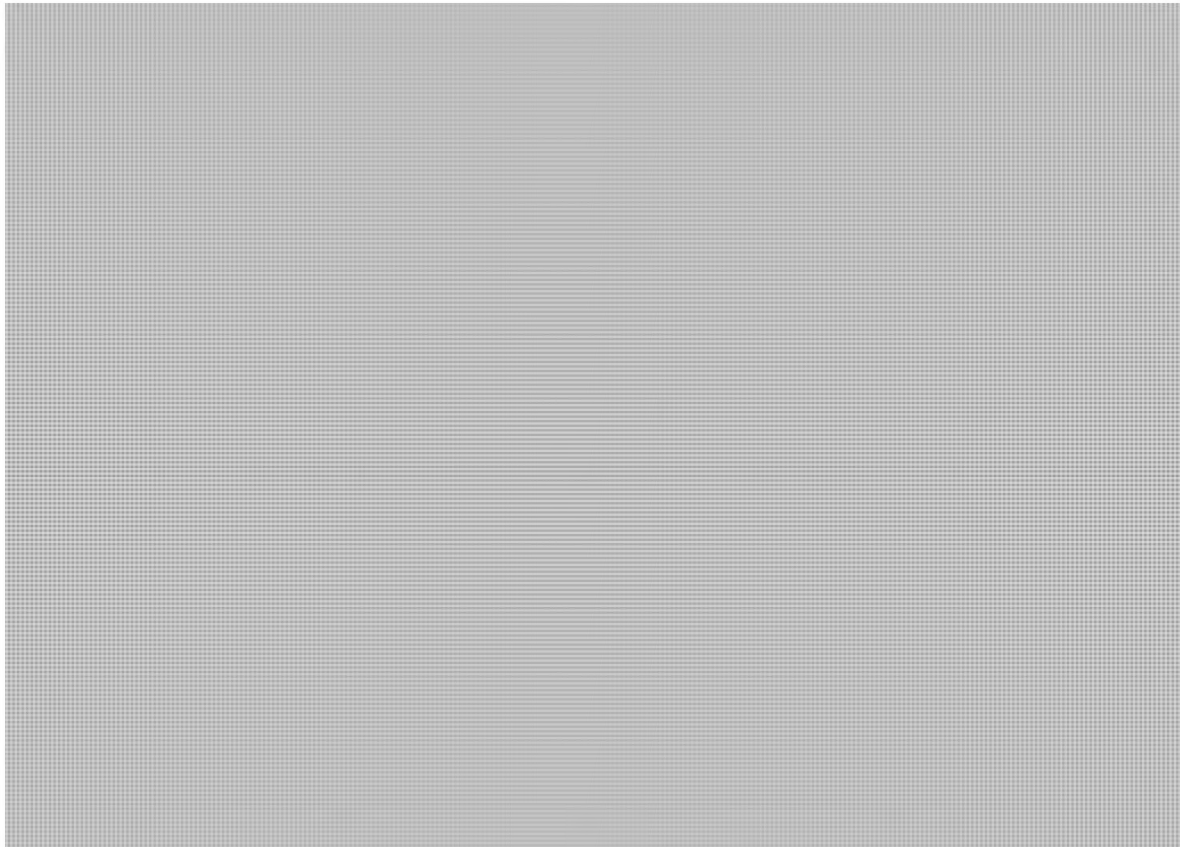
Department of Justice
Canada

Ministère de la Justice
Canada

FOR APPROVAL
NUMERO DU DOSSIER/FILE #: 2016-011114
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: PROTECTED B

TITRE/TITLE: Superior Court Judicial Appointments Process

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY



s.21(1)(a)

s.21(1)(b)

Soumis par (secteur)/Submitted by (Sector):

Public Law and Legislative Services Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Claudine Patry

Revue dans l'ULM par/Edited in the MLU by:

Matt Ignatowicz

Soumis au CM/Submitted to MO: REVISED June 14, 2016



Protected B
FOR APPROVAL

2016-011114

MEMORANDUM FOR THE MINISTER

Superior Court Judicial Appointments Process

ISSUE

The Government has publicly committed to increasing transparency, accountability, and diversity in superior court judicial appointments.

BACKGROUND

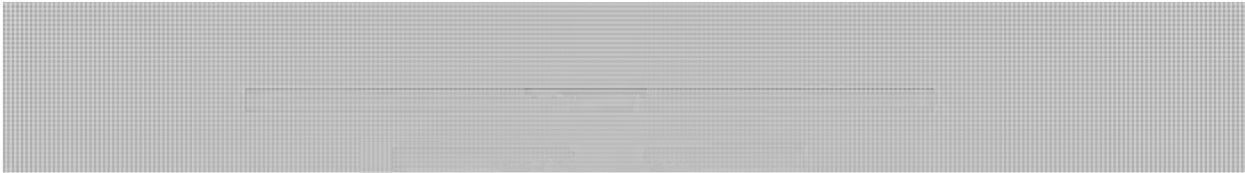
The current process for appointing superior court appointments has been in place since 1988 and is founded on assessments by 17 regionally-based Judicial Advisory Committees (JACs).¹ Candidates submit their application forms for appointment to the Commissioner for Federal Judicial Affairs (CFJA), which administers the process at arm's length from the Department of Justice. The CFJA ensures individuals meet the eligibility criteria for appointment and then forwards applications to the appropriate JAC. JACs assess applicants against published merit criteria and create lists of candidates that are "recommended" or that the JACs are "unable to recommend". All consultations and committee proceedings are confidential.

In 2006, the former government announced changes to the JACs membership and process. These changes: (1) added a member to each JAC to represent the law enforcement community; (2) removed the judicial member's right to vote (except in the event of a tie); and (3) removed the "highly recommended" category of assessment.

Currently, JACs' capacity to assess applications is severely limited since only 8 (of 17) JACs have quorum as of June 1. Of those that are still nominally operational, most have at least one vacancy and only the JACs from British Columbia and Alberta have a full slate of members. The Government has publicly committed to filling urgent vacancies from existing lists of recommended applicants.

¹ Three for Ontario, two for Quebec, one each for the other provinces/territories, and one for the Tax Court of Canada. Each JAC has eight members: nominee of the P/T law society; nominee of the P/T branch of the CBA; a judge nominated by the jurisdiction's chief justice or senior judge; nominee of the provincial AG or territorial MOJ; nominee of the law enforcement community; and three nominees of the federal MOJ (representing the general public). Appointments to the JACs do not require an Order in Council; they are made by the Minister of Justice (in some case from lists of potential candidates provided by nominating entities).

CONSIDERATIONS

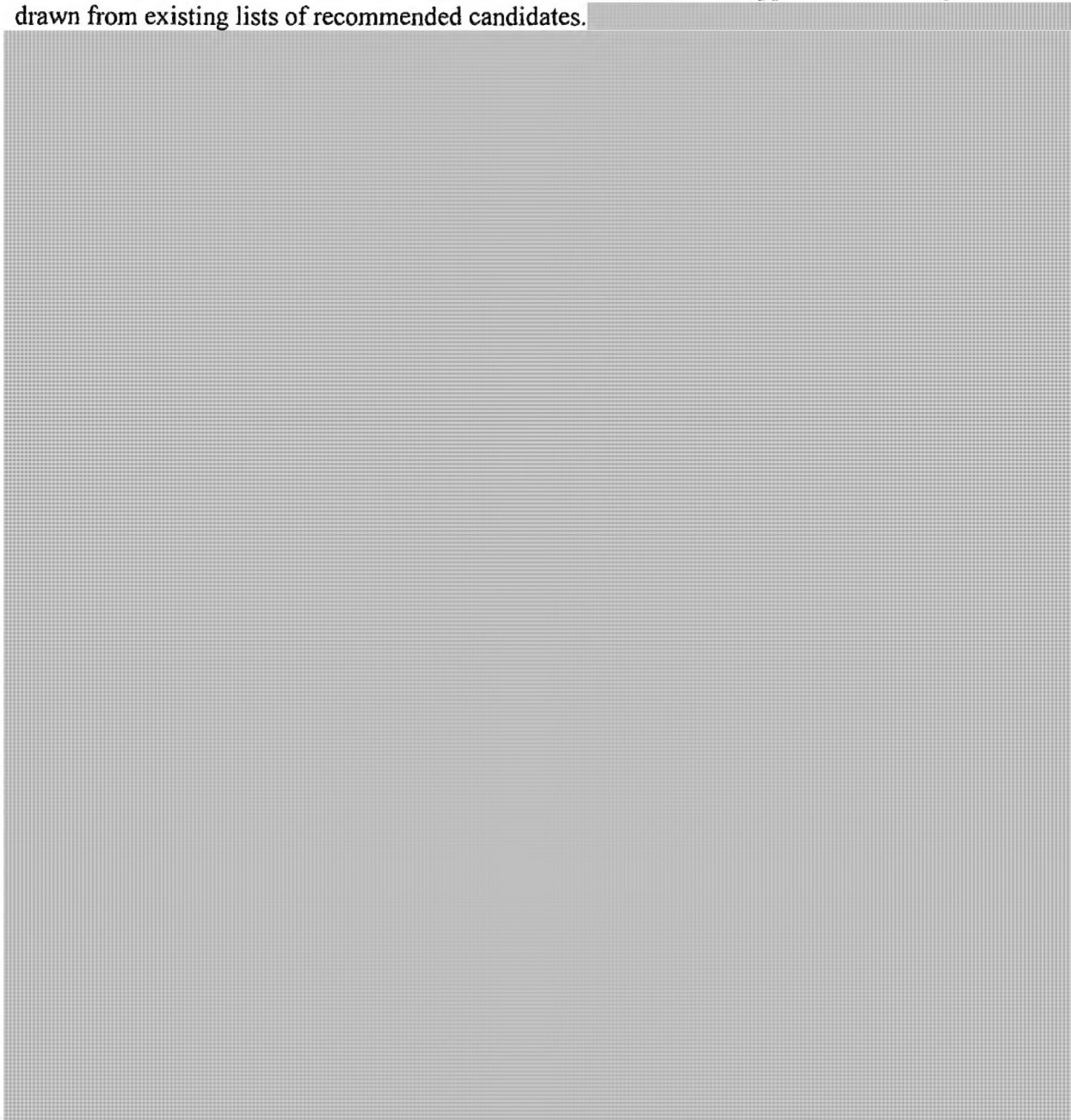


s.21(1)(a)

Immediate Phase: Appointments from Existing Lists

s.21(1)(b)

The Government has indicated that it will make at least one round of appointments using names drawn from existing lists of recommended candidates.

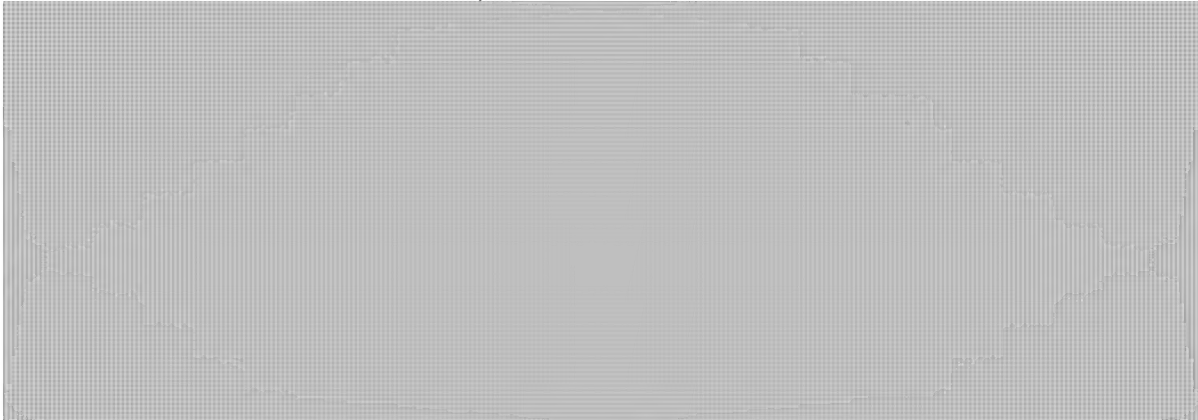


Pages 4 to / à 6
are withheld pursuant to section
sont retenues en vertu de l'article

21(1)(a)

of the Access to Information Act
de la Loi sur l'accès à l'information

RECOMMENDATION



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s.21(1)(a)
s.21(1)(b)

ANNEXES

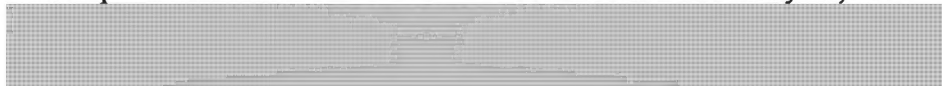
Annex 1:



Annex 2:

Correspondence from the Canadian Judicial Council dated May 26, 2016

Annex 3:



PREPARED BY

Anna Dekker

Counsel

Judicial Affairs, Courts and

Tribunal Policy

613-952-0516

Catherine McKinnon

Senior Counsel

Judicial Affairs, Courts and

Tribunal Policy

613-954-1921

☐ I CONCUR.

☐ I DO NOT CONCUR.

☐ OTHER INSTRUCTIONS:

The Honourable Jody Wilson-Raybould

Date

ANNEX 1

Pages 9 to / à 10
are withheld pursuant to sections
sont retenues en vertu des articles

21(1)(a), 21(1)(b)

of the Access to Information Act
de la Loi sur l'accès à l'information

ANNEX 2

1/3 pages



Canadian
Judicial Council
Conseil canadien
de la magistrature

Ottawa, Ontario K1A 0W8

MINISTER OF JUSTICE
MINISTRE DE LA JUSTICE
2016 MAY 31 P 2:55
RECEIVED/REÇU

26 May 2016

The Honourable Jody Wilson-Raybould, P.C, M.P.
Minister of Justice and Attorney General of Canada
Justice Headquarters
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Minister:

s.21(1)(a)

s.21(1)(b)



.../2

- 2 -

s.19(1)

s.21(1)(a)

s.21(1)(b)

Yours sincerely,

Pages 14 to / à 21
are withheld pursuant to sections
sont retenues en vertu des articles

21(1)(a), 21(1)(b)

of the Access to Information Act
de la Loi sur l'accès à l'information

ANNEX 3

Pages 23 to / à 24
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sont retenues en vertu des articles

21(1)(a), 21(1)(b)

of the Access to Information Act
de la Loi sur l'accès à l'information



Department of Justice
Canada

Ministère de la Justice
Canada

FOR APPROVAL

NUMÉRO DU DOSSIER/FILE #: 2016-011634

COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: Bill C-16 (Gender Identity and Expression) Charter Statement

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- Your approval is sought on the attached Statement of Potential Charter Impacts for tabling in the House of Commons at Second Reading debate for Bill C-16, *An Act to amend the Canadian Human Rights Act and the Criminal Code*.
- Your approval is also sought on the attached Explanatory Note to accompany the Statement of Potential Charter Impacts.
- As set out in the Explanatory Note and Statement, the Statement identifies Charter rights and freedoms that might be impacted by Bill C-16 and provides a brief explanation of the nature of these impacts. It also identifies potential rationales for any limits on these rights and freedoms that the Bill might impose.
- The Statement is intended to inform public and Parliamentary debate on Bill C-16. It is not a legal opinion on the constitutionality of the Bill.
- Second Reading debate has not yet been scheduled.

Approbation/signature de la ministre demandée pour le/Minister's signature/approval requested by:

June 10, 2016

Soumis par (secteur)/Submitted by (Sector):

Public Law and Legislative Services Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Claudine Patry

Revue dans l'ULM par/Edited in the MLU by:

Matt Ignatowicz

Soumis au CM/Submitted to MO: June 3, 2016



Department of Justice
Canada

Ministère de la Justice
Canada

Protected B
FOR APPROVAL

2016-011634

MEMORANDUM FOR THE MINISTER

Bill C-16 (Gender Identity and Expression) Charter Statement

ISSUE

Your approval is sought on the attached Statement of Potential Charter Impacts (Annex 1) for tabling in the House of Commons at Second Reading debate for Bill C-16, *An Act to amend the Canadian Human Rights Act and the Criminal Code*. Your approval is also sought on the attached Explanatory Note (Annex 2) to accompany the Statement of Potential Charter Impacts.

BACKGROUND

As set out in the Explanatory Note and Statement, the Statement identifies Charter rights and freedoms that might be impacted by Bill C-16 and provides a brief explanation of the nature of these impacts. It also identifies potential rationales for any limits on these rights and freedoms that the Bill might impose.

CONSIDERATIONS

The Statement is intended to inform public and Parliamentary debate on Bill C-16 and to promote greater transparency and understanding of the Minister of Justice's role in examining legislation for consistency with Canada's Constitution.

The Statement is not intended to be a comprehensive overview of potential impacts, recognizing that the Bill may change over the course of its passage through Parliament. The Statement is not a legal opinion on the constitutionality of the Bill.

Second Reading debate for Bill C-16 has not yet been scheduled.

RECOMMENDATION

It is recommended that you approve the Statement of Potential Charter Impacts (Annex 1) and the Explanatory Note (Annex 2) for tabling in the House of Commons.

ANNEXES

Annex 1: Statement of Potential Charter Impacts
Annex 2: Explanatory Note

PREPARED BY
Eric Nielsen
Counsel
Human Rights Law Section
613-957-4936

☐ **I CONCUR.**

☐ **I DO NOT CONCUR.**

☐ **OTHER INSTRUCTIONS:**

The Honourable Jody Wilson-Raybould

Date

ANNEX 1

STATEMENT OF POTENTIAL CHARTER IMPACTS

BILL C-16

The Minister of Justice has examined this Bill for compliance with the Constitution, including the *Canadian Charter of Rights and Freedoms* pursuant to her obligation under s. 4.1 of the *Department of Justice Act*. This review included consideration of the objectives and features of the Bill, including the importance of promoting values that underlie the Charter and the *Canadian Human Rights Act* – notably equality, respect for diversity, human dignity, liberty and autonomy – in light of the experiences of transgender and other gender-diverse individuals in society.

The following non-exhaustive list of potential impacts on the rights and freedoms guaranteed by the Charter is presented to assist in informing the public and Parliamentary debate.

1. Promoting Charter values

Adding “gender identity or expression” to sections 2 and 3 of the *Canadian Human Rights Act* and sections 318 and 718.2 of the *Criminal Code* is consistent with core values which underpin the Charter, including equality, respect for diversity, human dignity, liberty and autonomy. These provisions would expressly recognize that everyone, including transgender and other gender-diverse individuals, should have an equal opportunity to live and work in an inclusive society free from discrimination and violence.

2. Freedom of expression: s. 2(b) of the Charter

Clause 3, which would amend the definition of “identifiable group” in s. 318(4) of the *Criminal Code* to include “gender identity or expression” for the purposes of the hate propaganda offences, limits s. 2(b) of the Charter, which protects freedom of expression. The proposed amendment would expand the scope of expression that would be criminalized by the *Criminal Code*’s hate propaganda offences, to include expressions of hatred toward an “identifiable group” on the basis of the group’s gender identity or expression. Hate speech is protected by s. 2(b) of the Charter, meaning that any limitation of it through criminal prohibition must be reasonable and demonstrably justified in a free and democratic society, as required by s. 1 of the Charter. Although the courts have held that freedom of expression includes the freedom to express hatred, even against vulnerable groups, such expression “falls far from the core values underlying s. 2(b)” and “does little to promote, and can in fact impede, the values underlying freedom of expression”. This makes restrictions on hate speech easier to justify under s. 1 of the Charter.

Rationale: The Supreme Court of Canada has upheld the prohibition against wilful promotion of hatred as a justifiable limitation of freedom of expression, in *R. v. Keegstra*. It is the Government’s position that the addition of “gender identity or expression” to the

grounds on which hate propaganda is prohibited, would be a justifiable limitation of s. 2(b). Transgender and other gender-diverse persons are vulnerable to discrimination, harassment and violence, and deserve society's protection against expression that is particularly extreme and harmful. The limitation would be justified considering the narrow breadth of the expression that would be criminalized, the distance of such expression from the core values for which freedom of expression is constitutionally-guaranteed, and the vulnerability of the persons who would be protected by the amendment.

3. The right to liberty: s. 7 of the Charter

Clause 3 could also impact s. 7 of the Charter, which protects against deprivations of life, liberty or security of the person that do not accord with the principles of fundamental justice. Individuals found guilty of hate propaganda offences could be punished with up to five years of imprisonment. A criminal prohibition that can be punished with a sentence of imprisonment deprives individuals of their right to liberty and so must respect the principles of fundamental justice.

Rationale: It is a principle of fundamental justice that offence-creating provisions not be vague. This means that Parliament must use language sufficiently clear both to limit enforcement discretion on the part of police and prosecutors, and to provide fair notice to individuals as to what actions contravene the law. There may be questions whether the term "gender identity or expression" is unconstitutionally vague. The minimum standard that Parliament must satisfy to avoid unconstitutionally vague criminal prohibitions is a low one. The term "gender identity or expression" interpreted in the context of the hate propaganda prohibitions, provides sufficient guidance for legal debate and is not unconstitutionally vague. This is further supported by the increasing use of these terms in provincial human rights codes.

ÉNONCÉ DES RÉPERCUSSIONS POSSIBLES LIÉES À LA CHARTE

PROJET DE LOI C-16

La ministre de la Justice a examiné le projet de loi afin de déterminer sa conformité au regard de la *Constitution*, incluant au regard de la *Charte canadienne des droits et libertés* au terme de ses obligations prévues à l'article 4.1 de la *Loi sur le ministère de la Justice*. L'examen effectué a pris en considération, entre autres, les objectifs et caractéristiques du projet de loi, y compris l'importance de la promotion des valeurs qui sous-tendent la *Charte* et la *Loi canadienne sur les droits de la personne* – notamment l'égalité, le respect de la diversité, la dignité humaine, la liberté et l'autonomie – en vue des expériences des personnes transgenres ou à genre variable en matière d'expression de genre dans la société.

La liste non exhaustive ci-après des répercussions possibles sur les droits et libertés garantis par la *Charte* est présentée afin de contribuer aux débats publics et parlementaires.

1. Promotion des valeurs qui sous-tendent la *Charte*

L'ajout de « l'identité ou l'expression de genre » aux articles 2 et 3 de la *Loi canadienne sur les droits de la personne* et aux articles 318 et 718.2 du *Code criminel* est cohérent avec les valeurs fondamentales qui sous-tendent la *Charte*, notamment l'égalité, le respect de la diversité, la dignité humaine, la liberté et l'autonomie. Les nouvelles dispositions reconnaîtraient explicitement que tous les individus, incluant les personnes transgenres ou à genre variable, devraient bénéficier de la même possibilité de vivre et travailler dans une société inclusive et libre de discrimination et de violence.

2. Liberté d'expression : al. 2b) de la *Charte*

L'article 3, qui modifierait la définition de « groupe identifiable » figurant au par. 318(4) du *Code criminel* pour inclure « l'identité ou l'expression de genre » pour les infractions relatives à la propagande haineuse, limite l'al. 2b) de la *Charte*, qui protège la liberté d'expression. La modification proposée élargirait l'étendue de l'expression qui pourrait être criminalisée par les infractions relatives à la propagande haineuse du *Code criminel* pour inclure les expressions de haine envers un « groupe identifiable » en raison de son identité ou expression de genre. Le propos haineux est protégé par l'al. 2b) de la *Charte*, en ce sens que toute restriction d'un tel propos au moyen d'une interdiction criminelle doit être raisonnable et doit avoir une justification qui puisse se démontrer dans le cadre d'une société libre et démocratique, comme l'exige l'art. 1 de la *Charte*. Bien que les tribunaux aient statué que la liberté d'expression inclut la liberté d'exprimer la haine, même contre des groupes vulnérables, une telle expression « s'écarte beaucoup des valeurs centrales de l'al. 2b) » et « contribue peu à promouvoir les valeurs sous-jacentes à la liberté d'expression », ce qui rend les restrictions au propos haineux plus faciles à justifier.

Justification : Dans *R. c. Keegstra*, la Cour suprême du Canada a confirmé que l'interdiction de fomenter volontairement la haine constituait une restriction justifiable de la liberté d'expression. Le gouvernement estime que l'ajout de « l'identité ou l'expression de genre » aux motifs pour lesquels la propagande haineuse est interdite constituerait une restriction justifiable de l'al. 2b). Les personnes transgenres ou à genre variable sont vulnérables à la discrimination, au harcèlement et à la violence, et méritent la protection de la société contre une expression qui est particulièrement extrême et préjudiciable. La restriction serait justifiée eu égard à l'étroite étendue de l'expression qui serait criminalisée, à l'écart entre une telle expression et les valeurs fondamentales pour lesquelles la liberté d'expression est garantie par la Constitution, et à la vulnérabilité des personnes qui seraient protégées par la modification.

3. Le droit à la liberté : art. 7 de la *Charte*

L'article 3 pourrait aussi avoir une incidence sur l'art. 7 de la *Charte*, qui confère une protection contre les atteintes à la vie, à la liberté ou à la sécurité de la personne qui ne sont pas en conformité avec les principes de justice fondamentale. Les individus reconnus coupables d'infractions relatives à la propagande haineuse pourraient être passibles d'un emprisonnement maximal de cinq ans. Une interdiction criminelle qui est passible d'une peine d'emprisonnement prive les individus concernés de leur droit à la liberté et doit donc respecter les principes de justice fondamentale.

Justification : Selon un principe de justice fondamentale, les dispositions qui créent des infractions ne doivent pas être imprécises. Le législateur doit donc utiliser un libellé suffisamment clair pour limiter le pouvoir discrétionnaire des policiers ou des procureurs dans l'application de la loi, mais aussi pour fournir un avis raisonnable aux individus en ce qui concerne les actions qui contreviennent à la loi. On peut se demander si le terme « identité ou expression du genre » est d'une imprécision inconstitutionnelle. La norme minimale à laquelle le législateur doit satisfaire est peu élevée à cet égard. Le terme « identité ou expression de genre », interprété dans le contexte des interdictions en matière de propagande haineuse, fournit des indications suffisantes pour orienter le débat juridique et n'est pas d'une imprécision inconstitutionnelle, comme tend à le confirmer également son emploi croissant dans les codes provinciaux des droits de la personne.

ANNEX 2

STATEMENT OF POTENTIAL CHARTER IMPACTS

Explanatory Note

The Department of Justice has prepared this "Statement of Potential Charter Impacts" to help inform public and Parliamentary debate on Bill C-16, *An Act to amend the Canadian Human Rights Act and the Criminal Code*. The Statement is also intended to promote greater transparency and understanding of the Minister of Justice's role in examining legislation for consistency with Canada's Constitution.

The attached Statement outlines some of the key considerations that informed the review of Bill C-16 for consistency with the Constitution, including the *Canadian Charter of Rights and Freedoms*. In particular, the Statement identifies Charter rights and freedoms that may potentially be impacted by the Bill and provides a brief explanation of the nature of these impacts, in light of the measures being proposed.

The Statement also identifies potential rationales for any limits on these rights and freedoms the Bill may impose. It is important to note that the Charter is not violated every time legislation impacts on or limits a right or freedom. It is only violated where a limit is not demonstrably justifiable as reasonable and proportional in a free and democratic society.

The Statement is intended to provide legal information to the public. It is not intended to be a comprehensive overview of potential impacts, recognizing that the Bill may change over the course of its passage through Parliament. Additional considerations relevant to the constitutionality of the Bill may also arise in the course of Parliamentary study. The Statement is not a legal opinion on the constitutionality of the Bill.

ÉNONCÉ DES RÉPERCUSSIONS POSSIBLES LIÉES À LA CHARTE

Note explicative

Le ministère de la Justice a préparé le présent « Énoncé des répercussions possibles liées à la Charte » afin de contribuer à éclairer le débat public et parlementaire au sujet du projet de loi C-16, *Loi modifiant la Loi canadienne sur les droits de la personne et le Code criminel*. La présente déclaration vise également à promouvoir une transparence et une compréhension accrues du rôle du ministre de la Justice en ce qui a trait à l'examen de la loi aux fins de la conformité à la Constitution canadienne.

L'Énoncé ci-joint présente certaines des considérations clés sous-jacentes de l'examen du projet de loi C-16 aux fins de la conformité à la Constitution, y compris la *Charte canadienne des droits et libertés*. En particulier, l'Énoncé identifie les droits et libertés garantis par la Charte sur lesquels le Projet de loi pourrait avoir un impact, et il fournit une brève explication de la nature des répercussions potentielles, à la lumière des mesures proposées.

L'Énoncé identifie également des justifications potentielles par rapport aux répercussions sur les droits et libertés que pourraient imposer le Projet de loi. Il est important de noter que la Charte n'est pas enfreinte chaque fois que la loi a une incidence sur un droit ou une liberté ou limite un droit ou une liberté. Elle n'est enfreinte que lorsqu'une limite ne peut être justifiée comme étant raisonnable et proportionnelle dans une société libre et démocratique.

L'Énoncé vise à renseigner le public sur le plan juridique. Elle ne se veut pas être un aperçu exhaustif des répercussions possibles, reconnaissant entre autre que le projet de loi pourrait être modifié au cours du processus parlementaire. Des considérations supplémentaires concernant la constitutionnalité du projet de loi pourraient également être soulevées au cours du processus parlementaire. L'Énoncé ne constitue pas un avis juridique sur la constitutionnalité du projet de loi.



Department of Justice
Canada

Ministère de la Justice
Canada

FOR INFORMATION

NUMERO DU DOSSIER/FILE #: 2016-011989

COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: Meeting with the Governor General of Canada, June 6, 2016

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- You will be meeting with His Excellency the Right Honourable David Johnston, Governor General of Canada, on June 6, 2016, [REDACTED]
- The members of the vice regal community of Canada, which is led by the Governor General and includes all the provincial lieutenant-governors, are the Queen's representatives within the Canadian federation.
- For the most part, the powers of the Crown are exercised by elected and appointed individuals, leaving the Governor General to perform the Monarch's various ceremonial duties. In addition, the Governor General plays a key role in promoting national identity by supporting and promoting Canadian values, diversity, inclusion, culture and heritage.

- [REDACTED]

s.21(1)(a)

s.21(1)(b)

Soumis par (secteur)/Submitted by (Sector):

Aboriginal Affairs Portfolio

Responsable dans l'équipe du SM/Lead in the DM Team:

Adam Garskey

Revue dans l'ULM par/Edited in the MLU by:

Matt Ignatowicz

Soumis au CM/Submitted to MO: June 3, 2016



Department of Justice
Canada

Ministère de la Justice
Canada

Protected B
FOR INFORMATION

2016-011989

MEMORANDUM FOR THE MINISTER

Meeting with the Governor General of Canada, June 6, 2016

ISSUE

s.21(1)(a) You will be meeting with His Excellency the Right Honourable David Johnston, Governor
s.21(1)(b) General of Canada, on June 6, 2016, [REDACTED]

BACKGROUND

The members of the vice regal community of Canada, which is led by the Governor General and includes all the provincial lieutenant-governors, are the Queen's representatives within the Canadian federation. As Queen Elizabeth II, Queen of Canada, works and resides predominantly outside of Canada, the Governor General's primary task is to perform the monarch's federal constitutional duties on her behalf. The Governor General acts within the principles of parliamentary democracy and responsible government as a guarantor of continuous and stable governance and as a nonpartisan safeguard against the abuse of power. For the most part, however, the powers of the Crown are exercised on a day-to-day basis by elected and appointed individuals, leaving the Governor General to perform the Monarch's various ceremonial duties.

In addition, the Governor General plays a key role in promoting national identity by supporting and promoting Canadian values, diversity, inclusion, culture, and heritage. The Governor General encourages Canadians to build a compassionate society and to work together to create strong and generous communities. By meeting with Canadians during visits or activities held at either of the two official residences, by taking part in community activities, and by listening to the concerns of Canadians, the Governor General encourages dialogue, promotes national identity, and fosters national unity. The current Governor General has been particularly active in issues related to veterans and education.

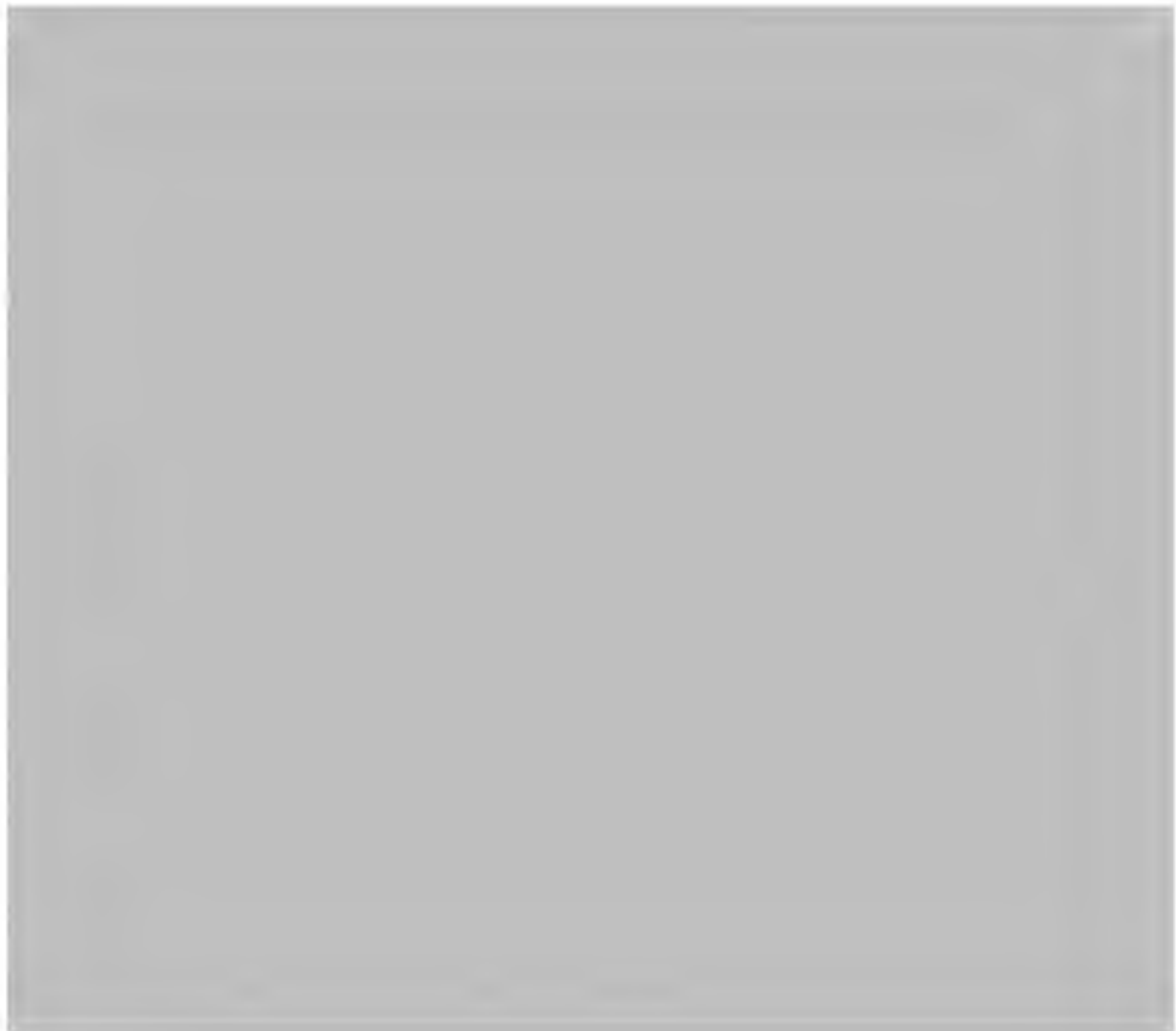
Several First Nations in Canada negotiated historic treaties with the Crown and, as such, consider that they have a direct treaty relationship with the Queen rather than with the Government of Canada. This was evidenced by strong calls from First Nations leaders to have the Governor General participate in the 2013 Crown-First Nations Gathering.

CONSIDERATIONS

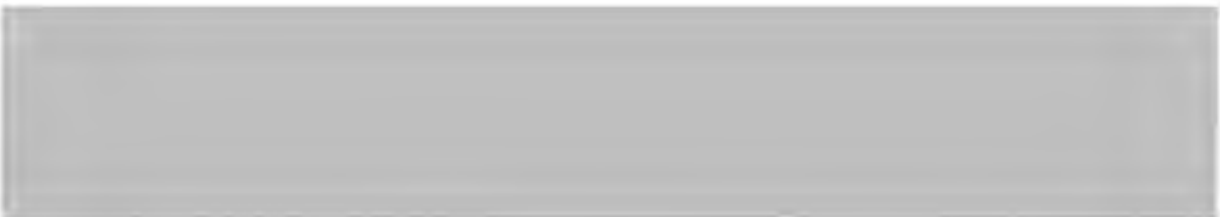
[REDACTED]

s.21(1)(a)

s.21(1)(b)



CONCLUSION



PREPARED BY
Renée Piché
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Aboriginal Law Centre
613-907-3776



Department of Justice
Canada

Ministère de la Justice
Canada

FOR SIGNATURE

NUMERO DU DOSSIER/FILE #: 2016-012032

COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

**TITRE/TITLE: Follow-up with Participants of the Minister's Roundtable
on the Review of the Criminal Justice System**

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- Attached for your approval is a letter expressing your appreciation to participants of the Minister's Roundtable on the Review of the Criminal Justice System (May 19-20, 2016).
- The letter, attached at Annex 1, will be disseminated to participants via email and will be accompanied by additional materials promised to participants during the meeting; summary report of the roundtable discussions, attached at Annex 2, and; the presentation by Statistics Canada, attached at Annex 3.
- If you approve, it is recommended that Steve Mihorean, Acting Director General of the Criminal Justice System Review team, will send the package to participants.

Approbation/signature de la ministre demandée pour le/Minister's signature/approval requested by:

June 13, 2016

Soumis par (secteur)/Submitted by (Sector):

Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Claudine Patry

Revue dans l'ULM par/Edited in the MLU by:

Sarah McCulloch

Soumis au CM/Submitted to MO: 10 June 2016

000039



Department of Justice
Canada

Ministère de la Justice
Canada

Protected B
FOR SIGNATURE

2016-012032

MEMORANDUM FOR THE MINISTER

Follow-up with Participants of the Minister's Roundtable on the Review of the Criminal Justice System

ISSUE

Attached for your approval is a letter expressing your appreciation to participants of the Roundtable on the Review of the Criminal Justice System held on May 19-20, 2016. It is recommended that this letter be sent to participants along with the summary of the discussion and other materials you committed to share with them. Your approval of the letter is requested by Monday, June 13, 2016.

BACKGROUND

On May 19-20, 2016, you hosted a roundtable conversation with a diverse group of stakeholders, partners, and practitioners to discuss and receive input on plans for the criminal justice system review. The purpose of the roundtable was to provide you with an opportunity to receive advice from trusted and experienced experts on the direction and approach that a review of the criminal justice system should take.

It is proposed that the letter, attached at Annex 1, expressing your appreciation to participants be sent on your behalf by the Criminal Justice System Review Team. This signed letter will be disseminated to participants via email and will be accompanied by additional materials promised to participants during the meeting; a summary report of the roundtable discussions, attached at Annex 2, and; the presentation by Statistics Canada, attached at Annex 3.

CONSIDERATIONS

It was agreed during the roundtable meeting that the Department would follow up with participants in order to provide them with additional materials from the discussion including a letter of thanks. This is an opportunity for you to signal your appreciation to participants for their attendance and contributions.

RECOMMENDATION

It is recommended that you approve and sign the attached letter and that Steve Mihorean, Acting Director General of the Criminal Justice System Review Group, send it to participants via e-mail on your behalf along with the additional materials.

ANNEXES

- Annex 1: Draft letter of appreciation to participants of the Roundtable
- Annex 2: Discussion Summary: Criminal Justice System Review Roundtable
- Annex 3: Evidence-based Approach to Change: A Way Forward

PREPARED BY

Katie Scrim

Analyst

Criminal Justice System Review

613-957-7283

ANNEX 1

Minister of Justice
and Attorney General of Canada



Ministre de la Justice
et procureur général du Canada

The Honourable / L'honorable Jody Wilson-Raybould, P.C., Q.C., M.P. / c.p., c.r., députée
Ottawa, Canada K1A 0H8

Dear Criminal Justice System Review Roundtable Participant:

I would like to express my appreciation to you for taking time to attend the meeting on the review of the criminal justice system held in Toronto on May 19 and May 20, 2016. Your commitment and thoughtful contributions demonstrate that, like me, you care deeply about these issues and are dedicated to improving outcomes for all Canadians.

The conversation was very meaningful and respectful and I believe we made a very productive use of our time together. Your practical suggestions, which were deeply rooted in your experience, combined with your vision for what the future could be, made for a rich exchange. Your generous sharing of ideas is much appreciated and will assist both myself and the Department in identifying ways to proceed on my priorities and in setting the stage for meaningful and lasting changes in our criminal justice system and for Canadians.

Once again thank you. I felt privileged to have that conversation with you and I encourage you to continue the important work I know you are doing within your respective communities.

Respectfully,

The Honourable Jody Wilson-Raybould

Canada

ANNEX 2

DRAFT for discussion only

Monday, June 06, 2016

DISCUSSION SUMMARY
CRIMINAL JUSTICE SYSTEM REVIEW ROUNDTABLE
TORONTO, ON
MAY 19-20, 2016

Overview

In support of her efforts to lead a review of the Canadian criminal justice system the Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, assembled a distinguished group (Annex A) of criminal justice system stakeholders for a conversation of possibility around some of the initial priorities and processes relating to the review. The stated intention was to benefit from the deep experience and vision of participants. This discussion was one early key part of what will become a thoughtful and informed look at the criminal justice system that ultimately identifies needed longer-term reforms, while also addressing shorter-term pressures.

To support unencumbered exchanges among participants, a non-attribution rule was in place. This discussion summary provides the core takeaways around each of the agenda items (Annex B).

Background

In her mandate letter from the Prime Minister of Canada (<http://pm.gc.ca/eng/minister-justice-and-attorney-general-canada-mandate-letter>), Minister Wilson-Raybould was instructed to "conduct a review of the changes in the criminal justice system and sentencing reforms over the past decade with a mandate to assess the changes, ensure that we are increasing the safety of our communities, getting value for money, addressing gaps and ensuring that current provisions are aligned with the objectives of the criminal justice system." The conversation at this roundtable was in direct support of this mandate and will help to frame the review. It is intended to be the first of many conversations and engagements the Minister will have with stakeholders, partners, and Canadians over the course of this review.

Objectives of the Review

The purpose of this discussion was an initial sounding on the possible objectives of the criminal justice system review (the Review), taking the opportunity to position the country for success and meaningful change. Conversation began with the recognition of the possibility for positive change that the Review offers. Participants welcomed a broad interpretation of the Minister's mandate to undertake the Review. Specifically, that the Review could and should do more than assess changes over the past decade but provide

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an overview of the system as a whole and its relationships to other systems. All acknowledged that many of outcomes of the Review would only be fully realized well-beyond the current mandate. The Review could be a foundational starting point for systemic change, provided it was not narrowly focused. The discussion around the objectives of the Review was intermingled with interventions on the need to revisit and recommit to the basic principles of the criminal justice system and the criminal law – while identifying and accounting for today's very different society. Objectives should be plainly expressed, meaningful, and understood by Canadians. Respecting and supporting Indigenous legal systems and processes that respect Aboriginal principles must also be considered.

There was a feeling that Canadians were not widely engaged around the purpose of the criminal justice system and that they needed to be. A renewed engagement would heighten awareness and understanding of issues which in turn would raise Canadians expectations and ultimately boost their expressed confidence in the system.

Among several concrete suggestions of objectives for the Review were offered:

- Reduction in the over-representation of vulnerable/marginalized groups within the criminal justice system. Simply put, "breathe life into the Charter".
- A system that is based on evidence and sound information to facilitate the ability to "scale up the successes".
- A requirement to take into account the underlying factors contributing to offending and victimization
- A principled approach towards adopting national standards that would address the intersection of the criminal justice system with other social systems (i.e., a system that encourages early access to other systems)

Currently there exist many barriers to innovation and creativity. A decisive move towards systems of social engagement and processes that involve the vulnerable and marginalized could promote resolutions within those communities that are most affected.

Above all else, the justice system should "do no harm".

Process

There was a rich discussion on implementation and process. Many discrete reforms can be done now. We know what is needed and in what areas, we should do them and move beyond the normal reflex of problem identification exercises which delay action. There was support for an approach that adopts a longer-term perspective and strategy. Given the enormity of the task and the potential that exists, consider resisting the urge to act quickly the process for the Review can be iterative rather than directive.

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There is merit in a process that very deliberately extends well beyond the criminal justice system. Engagement must be as diverse in approach as it is in the populations it reaches. In that sense, it will be important to truly, respectfully, and fully engage all Canadians (especially those most vulnerable and marginalized). Look to find those successes and positive local initiatives within the existing system and scale them.

Key System Issues and Pressures

The purpose of this discussion was to identify key system issues and pressures that are leading to many unintended outcomes for many Canadians. The conversation began with a discussion about the level of discretion across the system which can induce a highly risk averse culture. Incarceration is currently over emphasized.

Discrete sentencing and legislative reforms must continue under the rubric of the Review to address foundational questions of efficiency and fairness, for example. There are some laws that are no longer relevant to our modern world. The rise in specialized courts is a sign that the system is failing, characterized as a band aid solution to a disease. Silos within the system persist and as they do, they inhibit.

There needs to be a conscious move away from the very reactive model that "places the ambulance at the bottom of the cliff", to one that anticipates. There needs to be a focus on the right offences and populations. Currently there is an over-criminalization of the symptoms of vulnerable and marginalized people and of less serious behaviour. Overrepresentation was considered among the most important issues that the Review should address.

Evidence-based approach to change – pathways through the criminal justice system

A presentation by the Chief Statistician of Canada provided context for this portion of the conversation. Examples of data as well as some of the key initiatives that are currently being undertaken within Statistics Canada that are relevant to the review of the criminal justice system were highlighted.

The necessity for partnership was made clear. Namely, increasing our collaboration, and looking at new and innovative ways at addressing crime-related issues, Statistics Canada will play a key role in providing the necessary data for policy-makers to undertake evidence and results-based evaluations of the current and future criminal justice system.

The Review is an opportunity to strengthen our ability to know what is happening within the criminal justice system and can move us further towards having the right data to make decisions that can meaningfully impact the lives of Canadians. The lack of disaggregated data across the system is preventing informed decisions and action.

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How do we get there?

This discussion focused on the opportunities for making linkages within and beyond the criminal justice system as well as practical approaches to the Review. This discussion was well-framed by one participant who urged: “never forget that the justice system belongs to the people.” Deal with the needs of the individual rather than criminalizing their behavior. The criminal justice system must be reserved only for those cases where justified – recognizing the criminal justice system is rarely the answer and functions as a last resort. The importance of adopting a discourse that centers around Canadian values was signaled.

Partnership and collaboration were considered among the key tenets of the Review’s potential success. Early and earnest engagement with provincial and territorial partners should be the default. Active engagement of actors within other systems (e.g. health, education, child welfare) is also necessary. The simple act of increasing the diversity within the system will empower expert, advocacy, and citizens’ communities – look to build on their strengths and scale their successes.

Additionally, the following discrete suggestions of tangible actions were made:

- Involve the business community as they have the levers and capacity, once engaged, to deliver results quickly.
- Involve Canadians – take the opportunity to educate
- Involve the media, including social media, then use them

Early Actions

The conversation focused on areas and substantive ideas for early action. Apart from the following possibilities, there was general agreement around the importance of taking the time to first establish the narrative on which any reforms, and ultimately outcomes of the Review will rest. It was within the conversation around the Review’s narrative that the suggestion for a “strong restorative justice signal” be included.

The following items were listed by participants as areas suitable, and perhaps warranting, the early attention of the Review:

- Review of existing mandatory minimum penalty provisions
- Revisit use of conditional sentencing orders
- Victim surcharge
- Examine use of segregation and solitary confinement
- Pre-trial custody credit
- Examine pardon mechanism(s)

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A diversity of additional, yet broader, areas for action were also discussed by participants. These ranged from examining the dangerous offender process and the process of judicial appointments, to exploring the merits of a unified criminal court. Bail reform as a discrete area for sustained action also featured throughout this portion of the conversation.

Concluding thoughts

Participants offered sober reflections and advice to end the roundtable conversation, including:

- Extraneous circumstances and events, which are unforeseeable to us today, will hijack the agenda – use them as they can be an effective way to attract and commit public interest.
- Beware: passing legislation versus implementing it.
- Educate the media – social media levels the playing field
- Use Senators and Members of Parliament in consultation
- Always include your sceptics

The conversation ended as it began, with a great sense of optimism and hope. The Review is a critical, and yet, rare opportunity to truly create a criminal justice system that is just, compassionate and reflective of the values of all Canadians.

Note

This discussion summary should by no means be considered the definitive record of this engagement, as it has been compiled by an observer of the proceedings. Any errors or omissions are those of the author

Annex A Participant List

Annex B Agenda: Criminal Justice System Review Roundtable, May 19-20, 2016

Annex C Presentation (as delivered) by the Chief Statistician of Canada Evidence-based Approach to Change: A Way Forward - Measuring Pathways through the Criminal Justice System

Prepared by:

Katie Scrim
Criminal Justice System Review
613.957.7283

**Criminal Justice System Review Roundtable
May 19-20, 2016
Sheraton Gateway Hotel
Toronto, ON**

PARTICIPANT LIST

Minister

- | | |
|---|--|
| 1) Minister Jody Wilson-Raybould | Minister of Justice and Attorney General of Canada |
|---|--|

Facilitators

- | | |
|---|---|
| 2) George Thomson
(lead facilitator) | Senior Director of the National Judicial Institute's
International Cooperation Group |
| 3) Karen Cohl
(assistant facilitator) | Consultant, lawyer, and former Assistant Deputy Minister,
Ministry of Citizenship, Culture and Recreation (Ontario). |

Stakeholders

- | | |
|-----------------------------------|--|
| 4) Hon. Sanjeev S. Anand | Judge, Provincial Court of Saskatchewan |
| 5) Patrick Baillie | Psychologist, Alberta Health Services;
Consulting Psychologist, Calgary Police Service |
| 6) Anne-Marie Boisvert | Professor, Faculty of Law, Université de Montréal |
| 7) Right Hon. Kim Campbell | Former Prime Minister, and former Minister of Justice and
Attorney General |
| 8) Mary Campbell | Former Director General of Corrections and Criminal Justice
at the Department of Public Safety and Emergency
Preparedness Canada (retired) |
| 9) Suzanne Costom | Defence Attorney at Shadley Battista Costom;
Chair of the Canadian Bar Association's National Criminal
Justice Section |
| 10) Hon. Thomas Crabtree | Chief Judge, Provincial Court of British Columbia |

- 11) **Breese Davies** Criminal Lawyer, Breese Davies Law;
Vice President of the Criminal Lawyers' Association
- 12) **Myrna Dawson** Canada Research Chair in Public Policy in Criminal Justice;
Associate Professor of Sociology & Criminology, University
of Guelph
- 13) **Danny Graham** Lawyer, Special Advisor. Director of the Smart Justice
Network; former leader of Nova Scotia Liberal Party and
MLA Halifax-Citadel
- 14) **Scott Lekas** Director, Seven Sparks Justice Program, Mi'kmaw Native
Friendship Centre, Halifax, Nova Scotia
- 15) **Paula Marshall** Program Manager, Mi'kmaq Legal Support Network, Nova
Scotia
- 16) **Brenda Morrison** Director, Centre for Restorative Justice and Assistant;
Professor of Criminology at Simon Fraser University
- 17) **Margaret Parsons** Executive Director, African Canadian Legal Clinic (Toronto)
- 18) **Kim Pate** Executive Director, Canadian Association of Elizabeth Fry
Societies
- 19) **Rupert Ross** Former Assistant Crown Attorney, Kenora, ON (retired)
- 20) **Jonathan Rudin** Executive Director, Aboriginal Legal Services Toronto
- 21) **Hon. Barry Stuart** Former Chief Judge, Yukon (retired)
- 22) **William (Bill) Trudell** Criminal Lawyer;
Chair, Canadian Council of Defense Lawyers
- 23) **Chief Clive Weighill** President of the Canadian Association of Chiefs of Police;
Chief, Saskatoon Police Service
- 24) **Michelle Williams** Senior Instructor, Schulich School of Law, Dalhousie;
Director, Indigenous, Blacks and Mikmaq Initiative
- 25) **Hon. Raymond Wyant** Former Chief Judge, Provincial Court of Manitoba.
Chair, National Criminal Justice Symposium
- 26) **Alan Young** Associate Professor, Osgoode Hall Law;

Criminal Lawyer

Government Participants

- 27) **William F. Pentney** Deputy Minister and Deputy Attorney General of Canada,
Justice Canada
- 28) **Donald K. Piragoff** Senior Assistant Deputy Minister, Policy Sector, Justice
Canada
- 29) **Wayne Smith** Chief Statistician, Statistics Canada
(will attend to deliver a presentation)

Government Observers

- 30) **Lynn Barr-Telford** Director General, Health, Justice and Special Surveys,
Statistics Canada
- 31) **Angela Connidis** Director General, Corrections and Criminal Justice
Directorate, Public Safety Canada
- 32) **Rose-Marie Guerra** Event Planner and Coordinator, Justice Canada
- 33) **Stephen T. Mihorean** A/ Director General, Criminal Justice System Review,
Justice Canada
- 34) **Katie Scrim** Analyst, Criminal Justice System Review, Justice Canada
- 35) **TBC** Official, Criminal Law Policy Section, Justice Canada
- 36) **TBC** Official, Office of the Minister of Justice and Attorney
General of Canada
- 37) **TBC** Official, Office of the Minister of Justice and Attorney
General of Canada
- s.19(1) 38) [REDACTED] Official, Office of the Minister of Public Safety Canada
- 39) **TBC** Official, Office of the Prime Minister of Canada

**Criminal Justice System Review Roundtable
Sheraton Gateway Hotel
Toronto International Airport (Terminal 3)
May 19-20, 2016**

AGENDA

Thursday, May 19

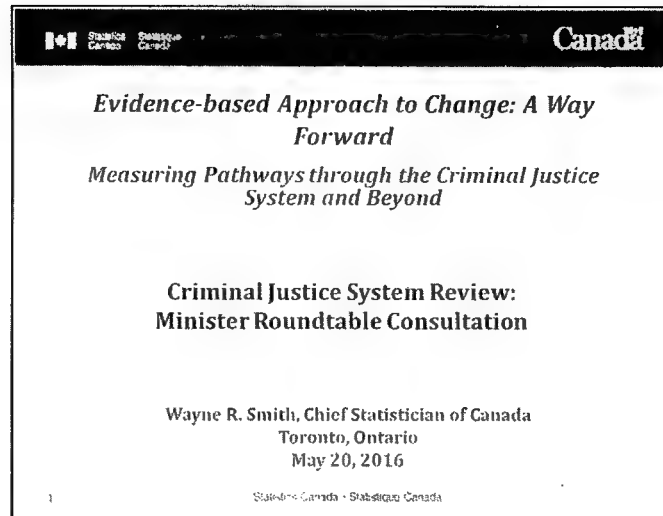
TIME	TOPIC	LEAD
17:30-18:15	Reception (<i>Luzern Room</i>)	
18:15-20:00	Working dinner (<i>Geneva Room</i>)	
	Welcome and Introductions	Mr. George Thomson (Facilitator)
	Remarks	Minister
	<u>Objectives of the Criminal Justice System Review</u> The purpose of this discussion is an initial sounding on the objectives of the criminal justice system review, taking the opportunity to position the country for success and meaningful change.	Facilitated discussion

Friday, May 20

7:30-8:00	Breakfast (<i>Geneva Room</i>)	
8:00-9:00	Continued discussion: <u>Objectives of the Criminal Justice System Review</u>	Facilitated discussion
9:00 -10:00	<u>Discussion 1: Key system issues and pressures</u> The purpose of this discussion is to identify key system issues and pressures that are leading to unintended outcomes for many Canadians.	Facilitated discussion
10:00-10:15	BREAK	

10:15-11:00	Continued discussion: <u>Key system issues and pressures</u>	Facilitated discussion
11:00-12:00	<u>Discussion 2: How do we get there? Where do we look?</u> This discussion will focus on the opportunities for making linkages within and beyond the criminal justice system as well as practical approaches to the criminal justice system review.	Facilitated discussion
12:00-13:00	WORKING LUNCH Presentation by Statistics Canada	Wayne R. Smith Chief Statistician
13:00-14:00	Continued discussion: <u>How do we get there? Where do we look?</u>	Facilitated discussion
14:00-15:30	<u>Discussion 3: Early actions</u> In this concluding conversation, we will focus our thoughts on early action.	Facilitated discussion
15:30-16:00	Closing remarks and final thoughts	All

ANNEX 3

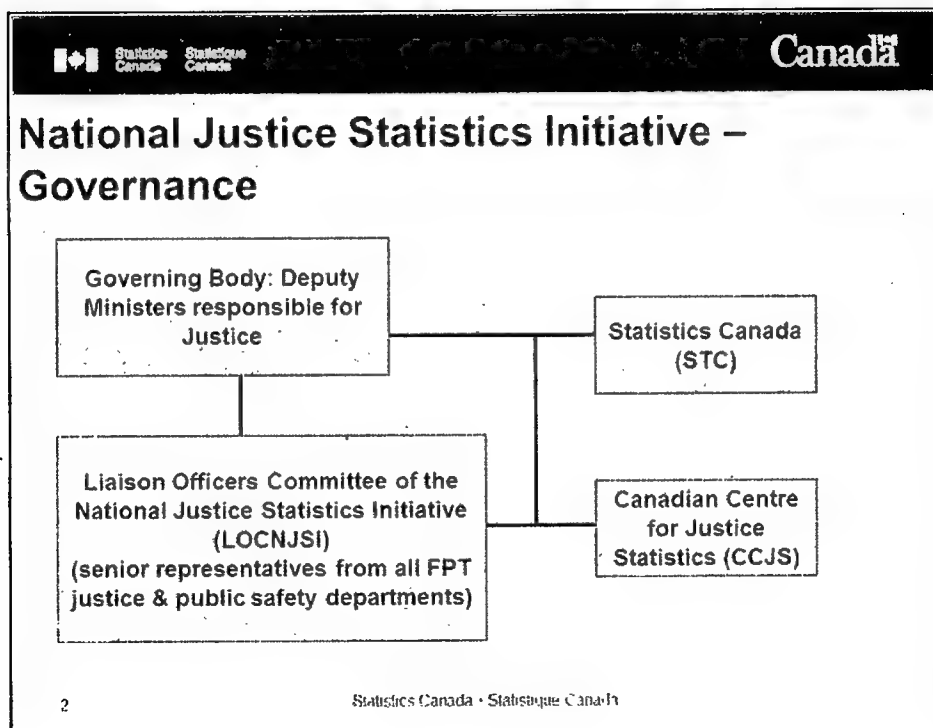


I would like begin by thanking Minister Wilson-Raybould, for the invitation to speak to you this afternoon as you begin discussions and consultations to address one of the key priorities set out in the Prime Minister's mandate letter to the Minister—a Criminal Justice System Review.

My presentation will provide you with some examples of data as well as identify some of the key initiatives that are currently being undertaken within Statistics Canada that are relevant to your ongoing discussions.

Given Statistics Canada's core Mandate to support evidence-based decision-making and results-based policy-evaluation, we welcome the opportunity to illustrate our current contributions to the Criminal Justice System and to participate as a strategic partner in the upcoming Justice System Review.

So.....what is Statistics Canada role in informing issues related to crime and justice in Canada.



Since 1981, the Federal, Provincial and Territorial Deputy Ministers responsible for justice and public safety in Canada have been working together, with the Chief Statistician of Canada, in an enterprise known as the National Justice Statistics Initiative or the NJSI. Its mandate is to provide information to the justice and public safety community, and to all Canadians, on the nature and the extent of crime and victimization, and the administration of both criminal and civil justice in Canada.

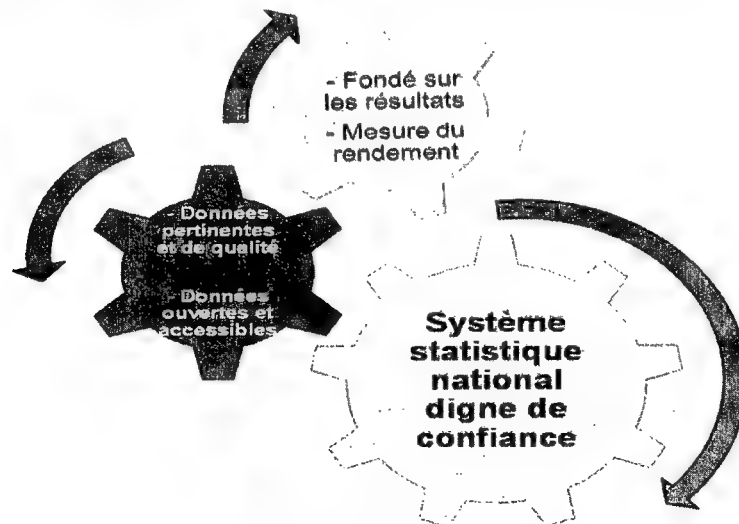
This chart shows the reporting structure of the NJSI.

The Canadian Centre for Justice Statistics is a division within Statistics Canada which serves as the operational arm of the NJSI. The focus of its activities is the development, collection, integration, analysis and dissemination of official justice statistics that reflect trends in Canada. It is also mandated to develop national and jurisdictional-level indicators on various aspects of crime and justice.

The NJSI is celebrating its 35th anniversary this year. Partnerships and collaborations within the NJSI have created greater value in the areas of relevance, responsiveness and access to quality justice data for all Canadians.

In fact, Statistics Canada considers this initiative as the best example of effective joint management of a statistical program in the interests of all key stakeholders.

Prise de décisions fondée sur des données probantes et évaluation des politiques fondée sur les résultats



3

Statistique Canada • Statistics Canada

Comme vous le savez, la lettre de mandat rédigée par le premier ministre à l'intention du ministre responsable de Statistique Canada, l'honorable Navdeep Bains, établissait un certain nombre de priorités clés, y compris :

- Premièrement, le rétablissement du questionnaire détaillé du recensement - qui a été effectué avec succès ce mois-ci;
- En deuxième lieu l'actualisation des lois régissant Statistique Canada pour renforcer notre indépendance;
- Et finalement, l'amélioration de la qualité des données accessibles au public au Canada, notamment l'accroissement de l'accès à ces données.

Le gouvernement a aussi fait part de l'importance qu'il accorde à la prise de décisions fondée sur des données probantes et l'évaluation des politiques fondée sur les résultats. Cela a entraîné, et continuera d'entraîner, une forte demande de données statistiques. On assiste à une montée inexorable de la demande de renseignements statistiques portant sur une gamme croissante de sujets et avec une précision accrue par sous-groupe de population et région géographique. On assiste également à l'accélération du rythme, alors que la pertinence de nos renseignements à l'intention des décideurs est de plus en plus déterminée par notre capacité de livrer ces renseignements en temps utile. Cette demande accrue mettra à l'épreuve temporairement notre capacité alors que nous nous ajustons à ce nouveau niveau d'attentes, mais nous nous ajusterons néanmoins. Le moins qu'on peut dire, c'est que Statistique Canada vit une période palpitante remplie de défis.



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STATISTIQUES CLÉS :

Délais de traitement des causes portées devant les tribunaux

- Temps écoulé par cause
- Cas particuliers : conduite avec facultés affaiblies
- Tribunaux provinciaux par rapport aux cours supérieures

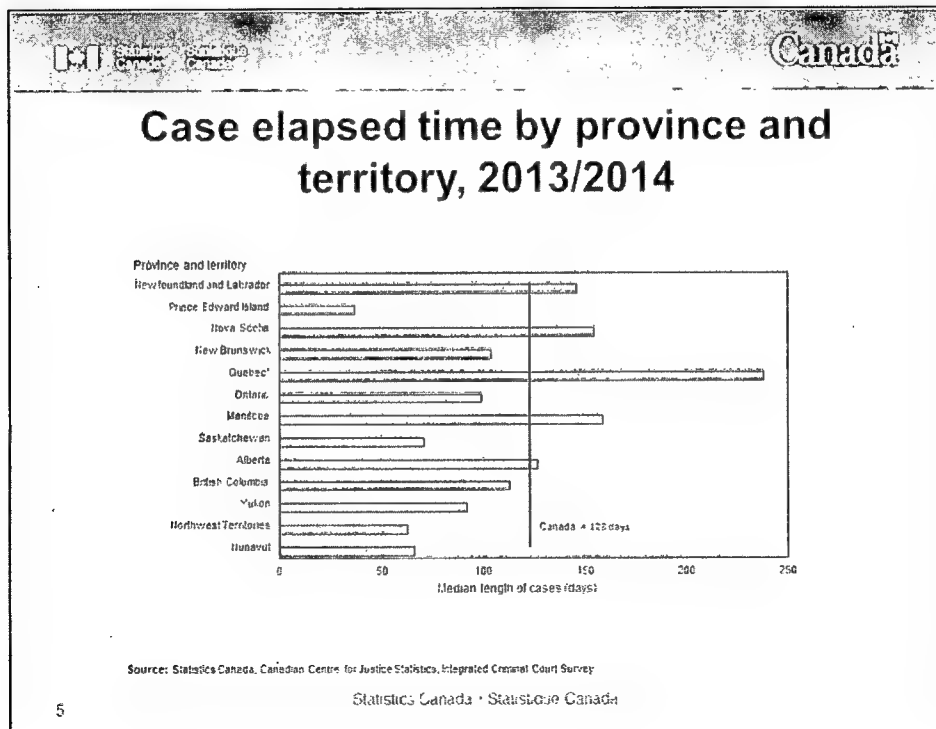
Populations vulnérables – victimes et délinquants

- Santé mentale
- Population autochtone
- Collectivités à risque - Nord provincial et territoires
- Enfants et jeunes - les plus jeunes victimes
- Criminalité chez les jeunes

J'aimerais maintenant passer en revue avec vous quelques-unes des principales statistiques qui font ressortir certains enjeux clés mentionnés dans la lettre de mandat du Ministre de la Justice et qui feront certainement partie de vos discussions du fait de leur lien avec l'efficience et l'efficacité du système de justice pénale, tout en portant une attention particulière à certains acteurs clés de ce système : les victimes et les délinquants.

Je commencerai par des constatations concernant les délais de traitement des causes devant les tribunaux canadiens, puisqu'ils sont d'une grande pertinence pour l'efficience du système de justice pénale.

Je poursuivrai en présentant des données sur certains des groupes les plus vulnérables, notamment la population autochtone, les personnes qui ont des problèmes de santé mentale, les collectivités à risque — plus précisément le Nord provincial et les territoires — et, enfin, les enfants et les jeunes autant à titre de victimes que d'auteurs de crimes.



This slide shows the time it takes to process cases in criminal courts by province and territory.

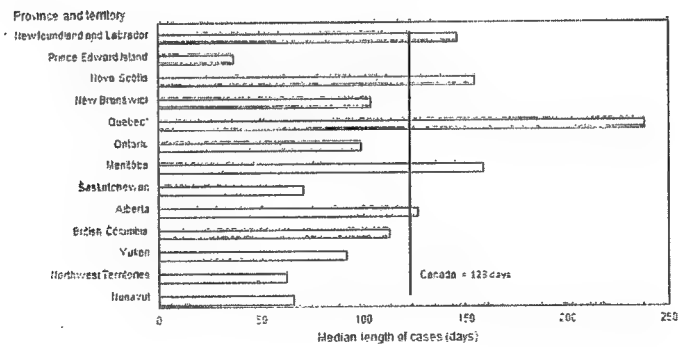
The time it takes a court to process its cases, is often considered a critical aspect of court performance. However, it varies widely from case to case, from court to court, and within given courts as their environment changes over time.

When making comparisons, one should bear in mind the many factors that influence variations between jurisdictions. These include Crown and police charging practices, offence distributions, and various types of diversion programs and extra-judicial measures.

You will notice from this graph that case time processing varies significantly across provinces and territories.

Prince Edward Island has the shortest median case elapsed time, at 37 days. Saskatchewan and the 3 Territories also exhibit median case processing time significantly lower than the national median time, with Quebec having the longest, at 238 days. A portion of that difference can be explained, in part, by the fact that municipal courts, which hear a certain number of criminal cases, are not able to report their data to Statistics Canada.

Case elapsed time by province and territory, 2013/2014



Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey

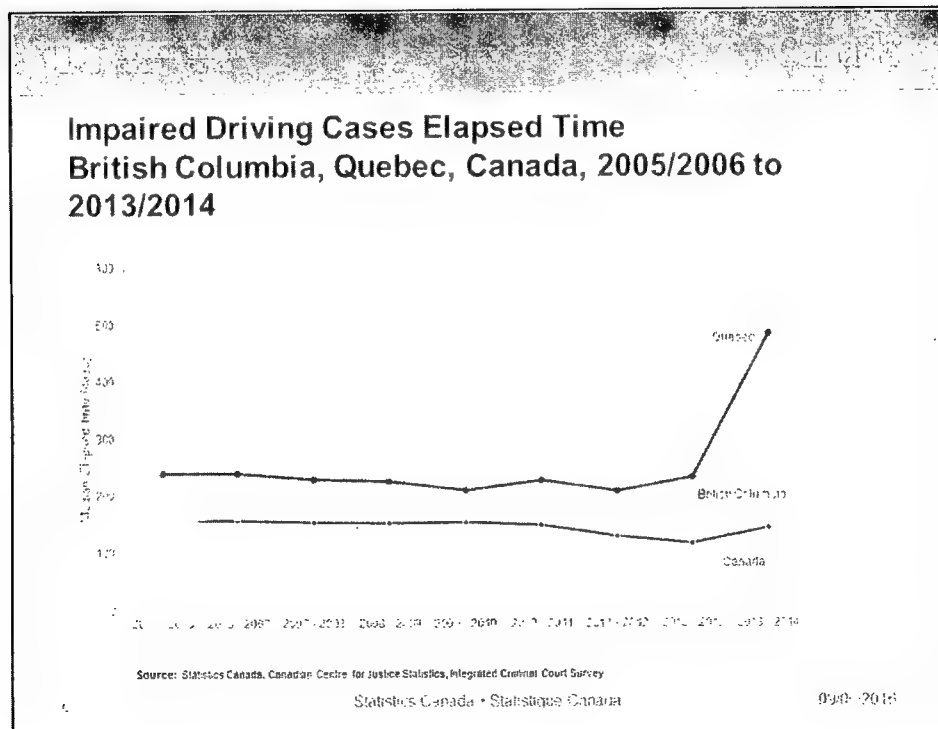
Statistics Canada • Statistique Canada

Differences observed between provinces and territories remained relatively constant over the years. But some provinces have experienced variations which are worth mentioning.

Again in Québec, case processing time has not only been higher than that of the other provinces but it has increased significantly over the most recent three years for which we have data, from 191 median days in 2010-2011 to 238 in 2013-2014.

Time to process a case in Manitoba and in Nova Scotia has also increased, but to a lesser degree.

When we looked more closely at the data, we were able to link some of the increase in case processing time to the recent increases in the time it took to process Impaired driving cases in certain provinces. These cases represent 11% of all the cases heard in criminal courts in the country.



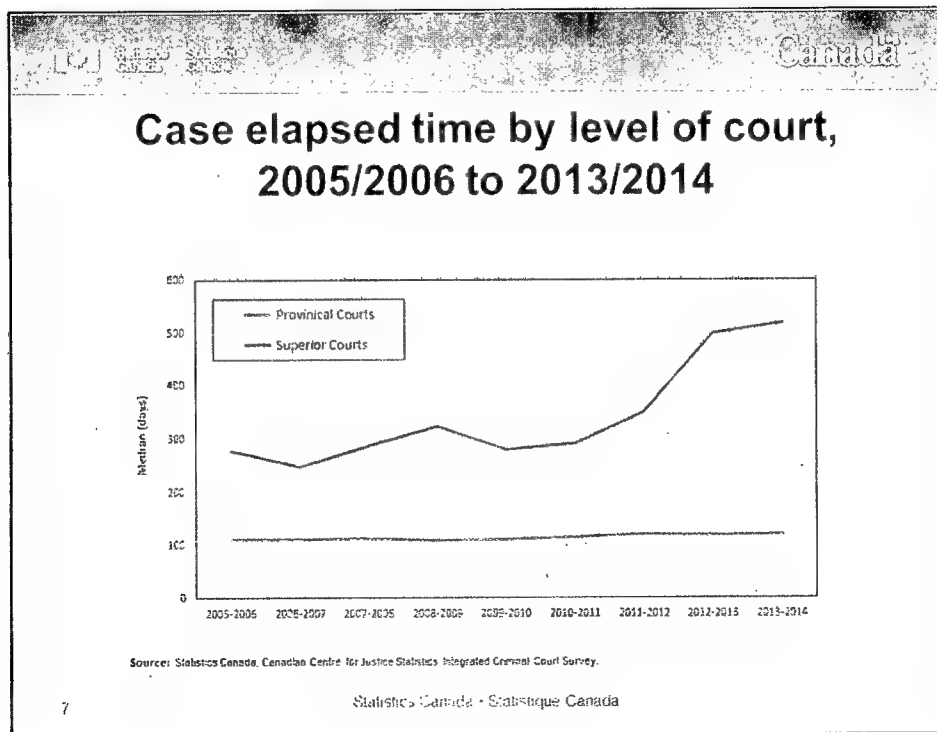
This graph shows what is hiding behind the national picture when looking at specific jurisdictions and the specific type of offence, namely impaired driving. You can see on the graph, a slight decrease in case processing time beginning in 2010 at the national level for impaired driving—followed by a slight increase from 2012. These subtle shifts at the national level mask much more significant shifts at the provincial level, specifically for British Columbia and for Quebec.

As mentioned earlier, different practices will impact the number of cases heard but also the time it takes to process them.

The latest significant increase in Quebec is notable. In only one year, time to process these cases more than doubled, going from 232 to 483 median days.

One plausible interpretation for this increase, is that some judges in Quebec have decided to wait for the Supreme Court decision on the reliability of breathalyser test results before hearing impaired driving cases. This has led to an accumulation, and significant backlog, of cases in the system. When the Supreme Court decision was rendered in 2012, the return of these cases in courts had an impact on case processing time.

We also observed some increase in case processing time in British Columbia. In this case, however, it could be linked to the fact that more incidents are being treated administratively at the police level after the introduction of administrative penalties in 2010, leaving only the most complex or difficult cases to be heard in the courts.



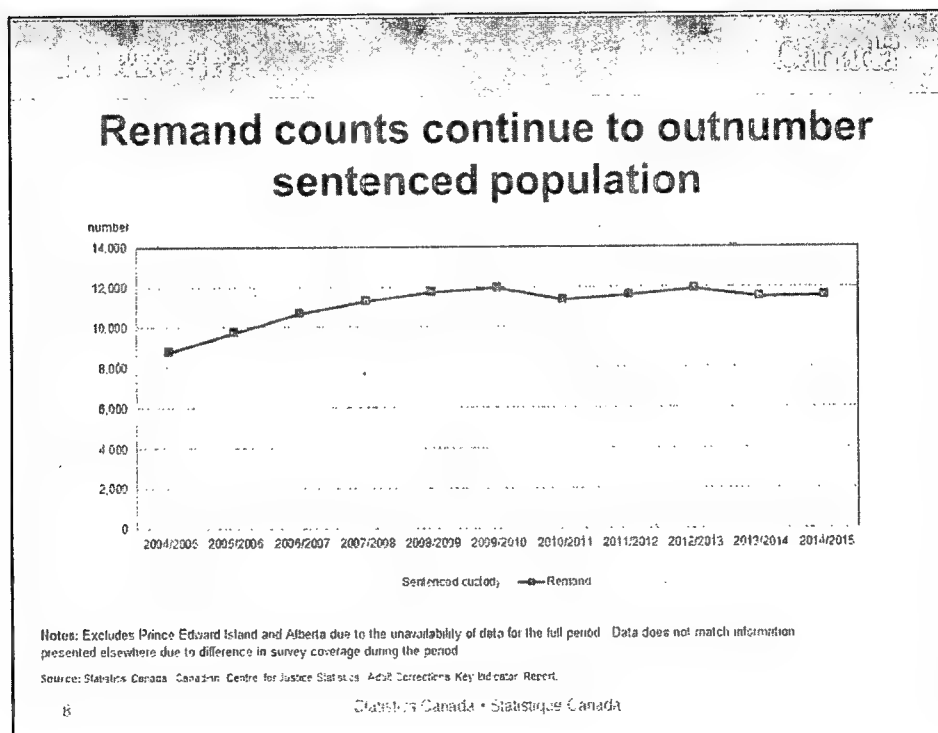
PAUSE

Another area which has garnered a lot of attention lately in the Justice Community is the recent increase of case elapsed time in Superior Courts. This graph shows data for all jurisdictions able to report Superior Court data, namely Newfoundland and Labrador, Nova Scotia, New Brunswick, Alberta, British Columbia and the three Territories.

As can be seen from this graph, median case processing times in Superior Court were not only longer, but they have seen a considerable increase since 2010-2011.

The median case processing time in Superior Court almost doubled from 291 days to 517 days from 2010-11 to 2013-2014.

There is little information available to explain these recent variations, although individuals in this room may have explanations for what we are seeing. However, we have to remember that we are dealing with a very small number of cases—around 1,200 cases recently—and that exceptional cases or the increasing complexity of cases, in general, could have an impact on observed elapsed time. There is also some information missing on aspects of these cases such as legal representation and time spent in remand which makes it difficult to establish any clear link from a statistical point of view.



PAUSE

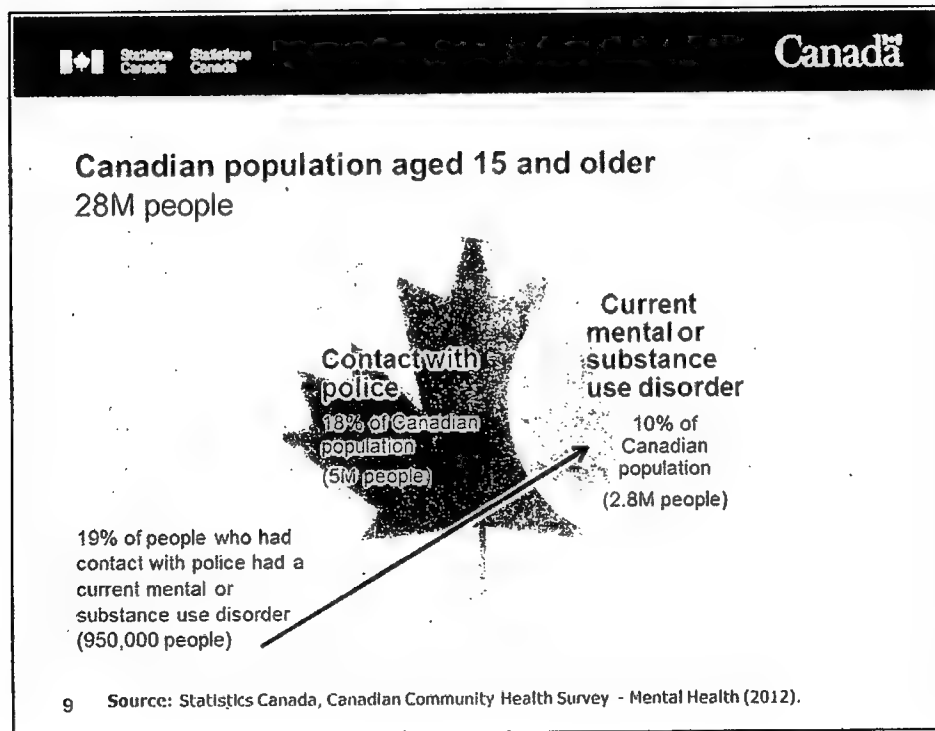
I would now like to turn to the issue of remand custody. As you know, remand is the first point of contact for many adults entering adult corrections.

It is worth mentioning that those in remand custody continued to outnumber those in sentenced custody. That trend began more than a decade ago when for the first time, the remand population became more important than the population in sentenced custody. This has consistently been the case since then.

For example, In 2014/2015, there were 13,650 adults held in remand, awaiting trial or sentencing, and 10,364 adults were in sentenced custody. Remand therefore represented 57% of those in custody.

The total number of adults in remand in 2014/2015 was 39% higher than in 2004/2005. All provinces and territories have experienced increases, however, the largest increases were noted in Nova Scotia, the Northwest Territories, Manitoba and Alberta.

Among the provinces, Nova Scotia and Alberta had the highest proportion of their custodial populations in remand (68% and 67% respectively), while Prince Edward Island had the lowest proportion (16%).



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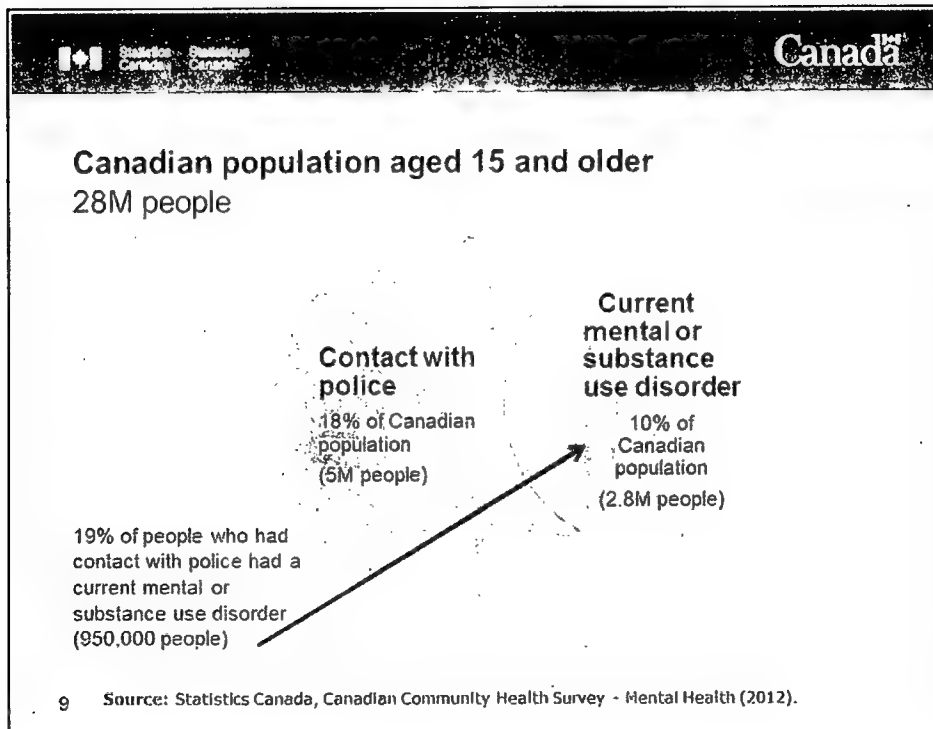
I would like to now move to some key statistics on victims and offenders.

Many of those coming in contact with the criminal justice system belong to vulnerable populations. Their vulnerability arises from, among other things, both historical and ongoing social disadvantages, issues related to mental health and addiction, and also various forms of victimization.

While the majority of Canadians rarely come into contact with the police, previous research has shown that the proportion of people with a mental health or substance use disorder coming into contact with police is higher than for the general population.

To put disorders among the Canadian population, as well as their contact with police, into perspective, let's look at this graphic.

- The 2012 Canadian Community Health Survey reported that 2.8 million Canadians, aged 15 and older, exhibited symptoms that were consistent with a mental or substance use disorder in the previous 12 months
- We also saw that among those Canadians aged 15 and older, 18%, or five million Canadians, reported coming into contact with police in the previous 12 months
- Further analysis of those five million Canadians indicates that about one in five had a mental or substance use disorder. This means that one in five of the individuals that police come into contact with may have a mental or substance use disorder.



A notable finding related to those who indicated having a current mental health or substance abuse disorder surrounds the issue of childhood maltreatment.

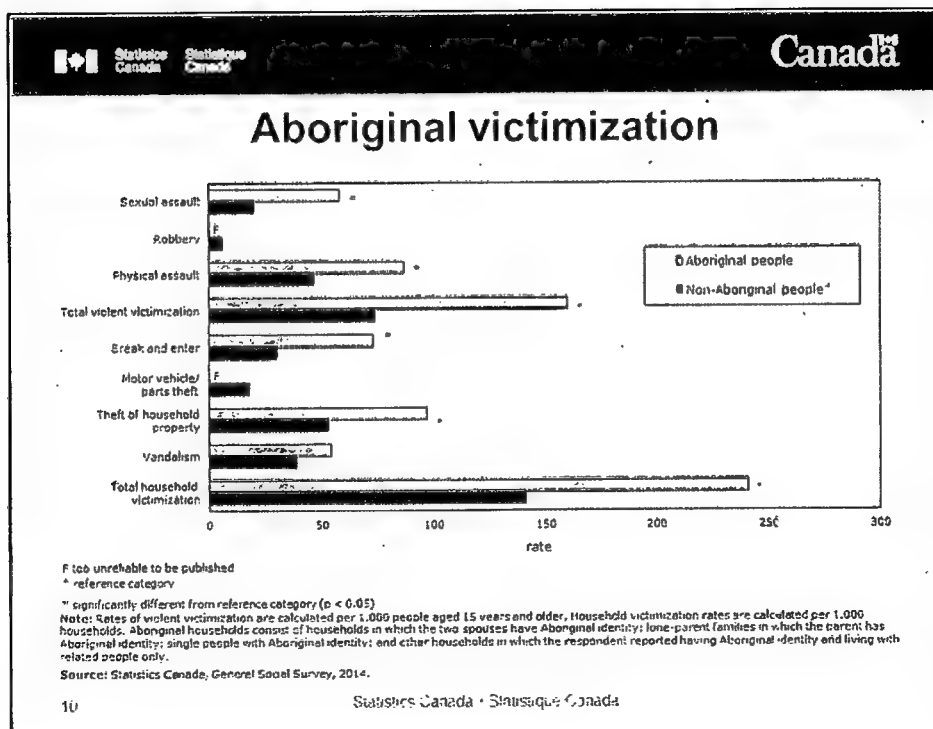
Previous research suggests a strong link between early childhood maltreatment and an increased likelihood of developing a disorder.

Results from the Canadian Community Health Survey indicated that a larger proportion of those with a disorder experienced childhood maltreatment, at 67%, compared to those who did not have a disorder, at 45%.

Closely tied to issues of mental health are also issues of homelessness.

Recent numbers from the General Social Survey highlight that:

- Among those that self-reported having a mental health disorder, 6% reported experiencing homelessness versus 1% among those with no disorder
- 6% of the Aboriginal population reported being homeless in their lifetime versus 2% of the non-aboriginal population
- Also according to the General Social Survey, those that reported having been homeless were also 2 times more likely to be victims of violent crime

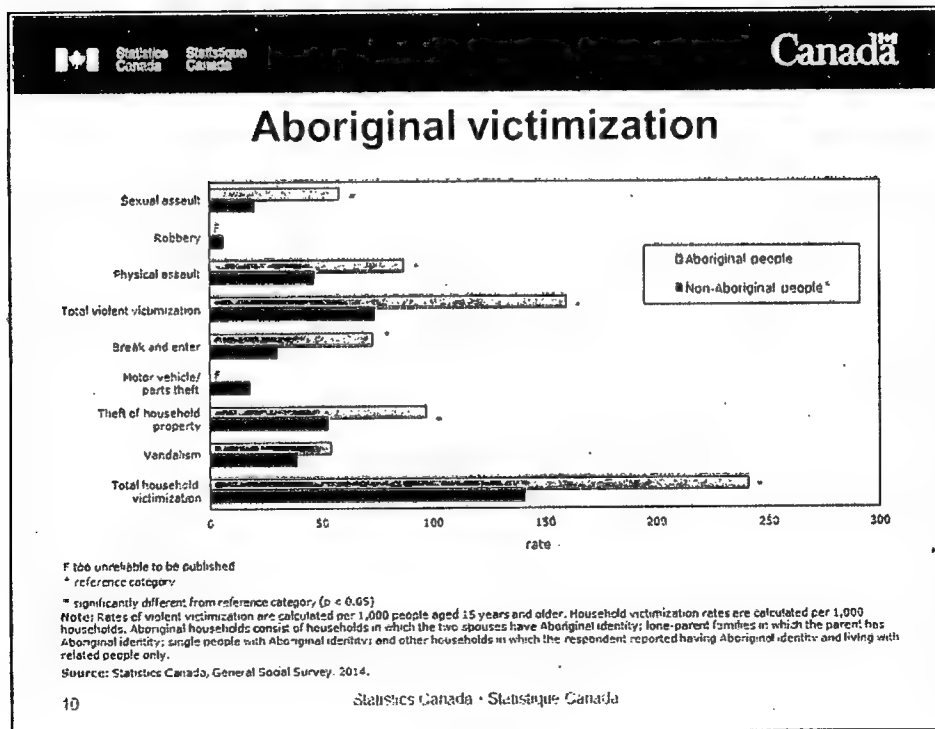


PAUSE

As many of you are aware, Indigenous people in Canada are over-represented as victims of crime as well as being overrepresented among admissions in correctional facilities—accounting for over one-quarter (28%) of admissions to sentenced custody (2011/2012) . This graphic illustrates the wide gap in victimization rates between aboriginal and non-aboriginal populations.

We also know that Aboriginal people are more likely to present risk factors that are associated with higher rates of violent victimization. Aside from knowing that the Aboriginal population is younger than the non-aboriginal population in Canada – a factor also linked to victimization, - we also know that Aboriginal people are:

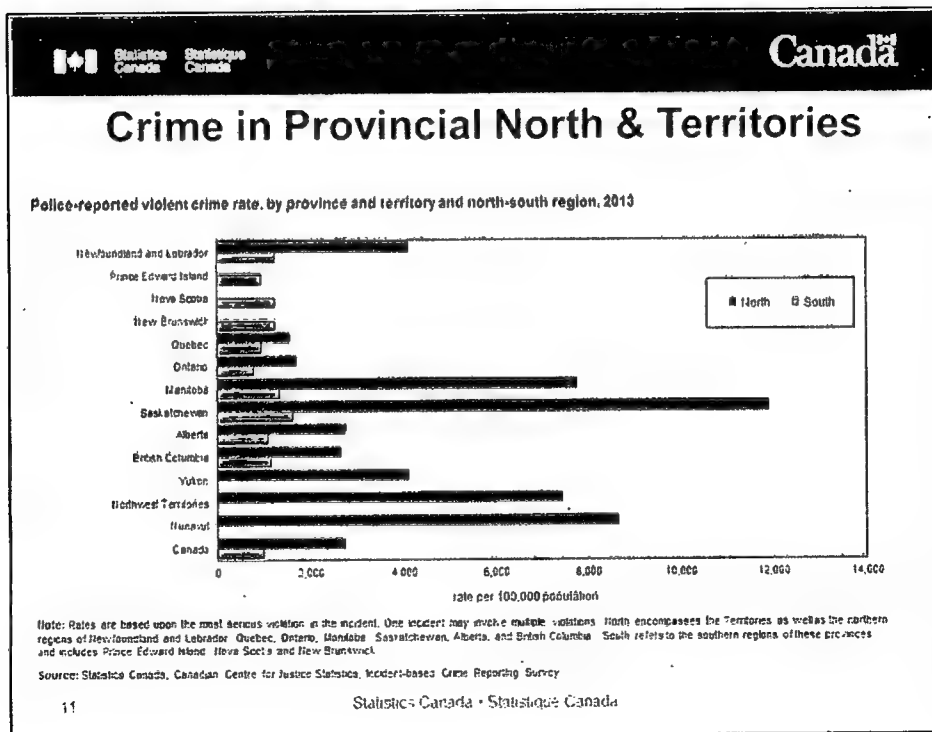
- 1.4 times more likely to have been victim of childhood maltreatment
- Twice as likely to report having a mental health condition
- and 2.5 times more likely to have a history of homelessness



When we control for all of these risk factors and others, Aboriginal identity alone does not stand out as a characteristic linked to victimization – except in the case of Aboriginal women.

Higher rates of violent victimization against Aboriginal Women can not be explained away by these factors --further research is required to explain their elevated risk.

However, from the data, we do know that they are proportionally more likely to have reported experiencing both physical and sexual violence as a child. A greater understanding of the impacts of this trauma is critical to ensuring more favourable outcomes for this vulnerable population.



PAUSE

I would now like to focus on vulnerable communities. That is, areas where crime rates are significantly higher than the national average.

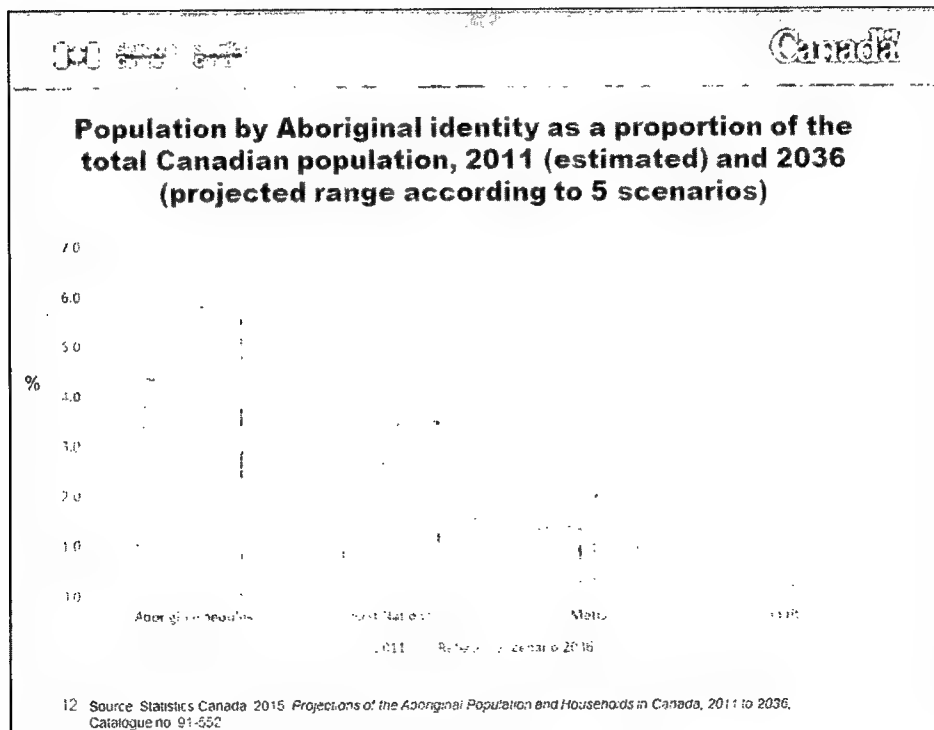
Northern Saskatchewan has the highest police-reported crime rate and Crime Severity Index in the North.

Nunavut, northern Manitoba and the Northwest Territories also have high levels of police-reported crime, followed by Yukon and northern Newfoundland and Labrador.

Types of crime most often reported in these regions included mischief and disturbing the peace, which accounted for over one-third of crimes in the provincial North and 60% of crime in the Territories.

Research has indicated that these crimes types are most often linked to alcohol and drug use.

Another interesting fact which arises when we look at the Territories, is the age at which crime starts to decrease. We observed that both victims and offenders in the Territories, are older on average than their counterparts in the south. While involvement in criminal activities starts slowly to decrease by around age 18 in the South, it does so only around late age 40s in the North.



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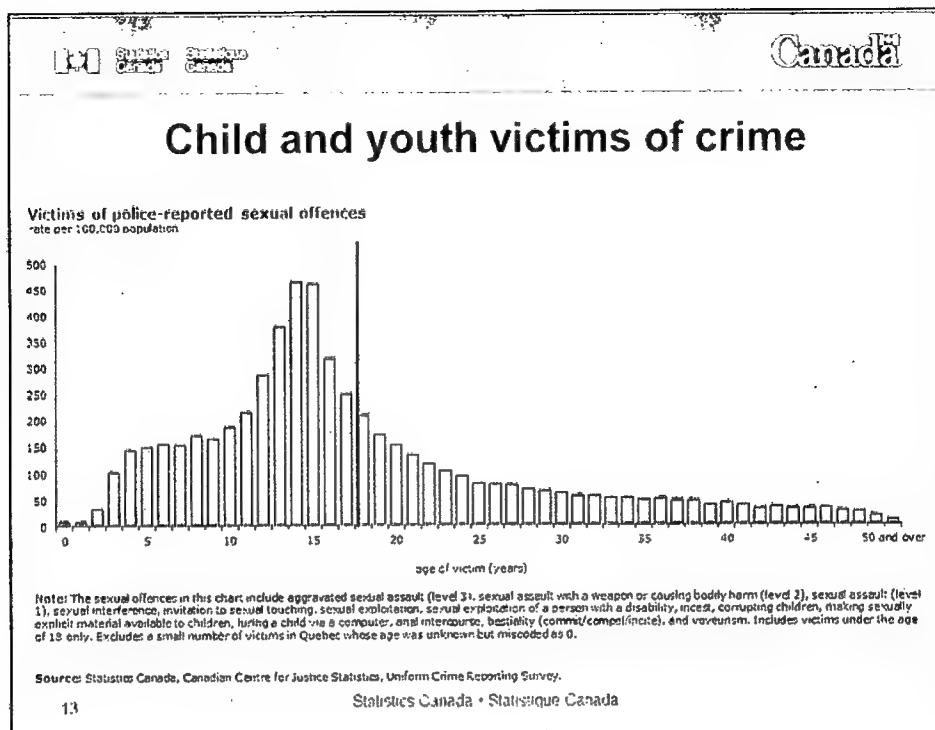
Keeping in mind the vulnerable communities and the overall higher rates of victimization among the Aboriginal people, it is important to look at the growth of this population in the coming decades.

As clearly indicated on this slide, the Aboriginal population will grow significantly from just over 4% of the Canadian population in 2011, or 1.4 million to almost 6%, between 2 and 2.6 million, in 2036.

As mentioned previously, relative to the non-Aboriginal population, the Aboriginal population is on average younger and has a much higher fertility rate.

If we focus just on younger persons aged between 0 and 24 years, representing a period associated with major transitions in life, aboriginal people could represent between 15% and 20% of the overall youth population outside major urban centers in the country by 2036. (outside CMAs)

Again, if fertility rates of aboriginals remain constant, aboriginal youth aged between 0 and 24 years old in rural areas of Manitoba and Saskatchewan could represent up to 45% of the youth populations in these areas by 2036.



PAUSE

Another group that I would like to highlight are the youngest victims of violent crime—that is young children and youth.

In 2014, there were about 53,600 children and youth who were victims of violent crime, representing 17% of all police-reported violent crime victims.

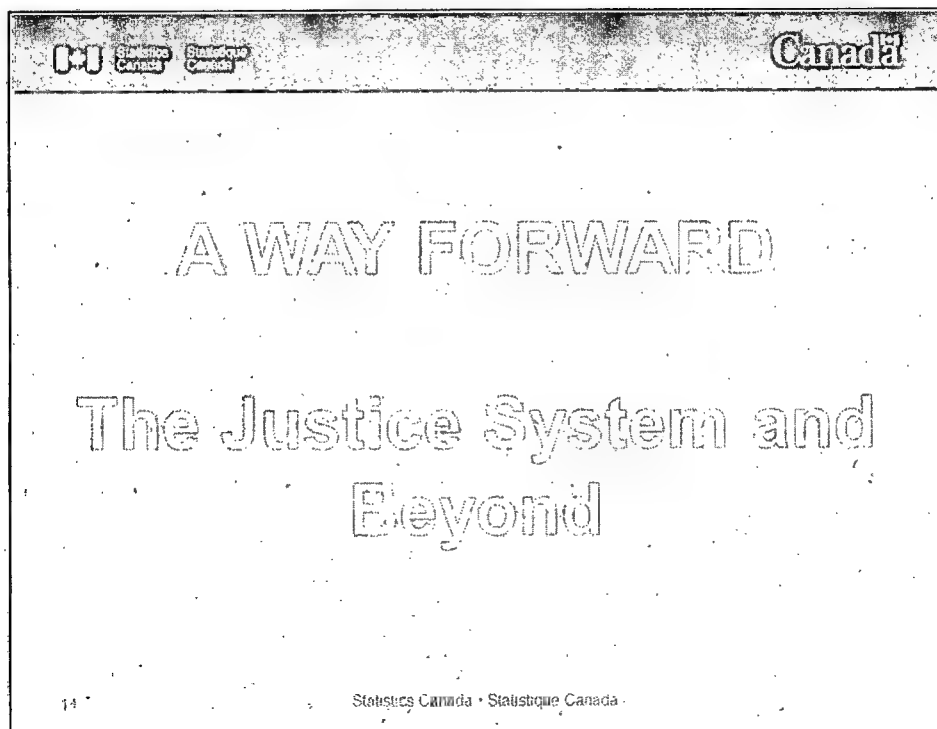
When children and youth are victimized, particularly when it comes to very young and dependent children, reporting often depends on an adult bringing the offence to the attention of police. As such, police reported data are considered underestimations.

But what we do know from the data is that children and youth have the highest rates of police-reported sexual assault victimization, approximately five times that of adults.

The majority of persons accused of sexually victimizing children and youth are known to the victim—most often as an acquaintance or family member—with only about 1 in 10 being victimized at the hands of a stranger.

Furthermore the perpetrators of this violence are most often youth themselves.

As you can see from this slide, sexual assault victimization rates are highest for those between 14 to 16 years of age.

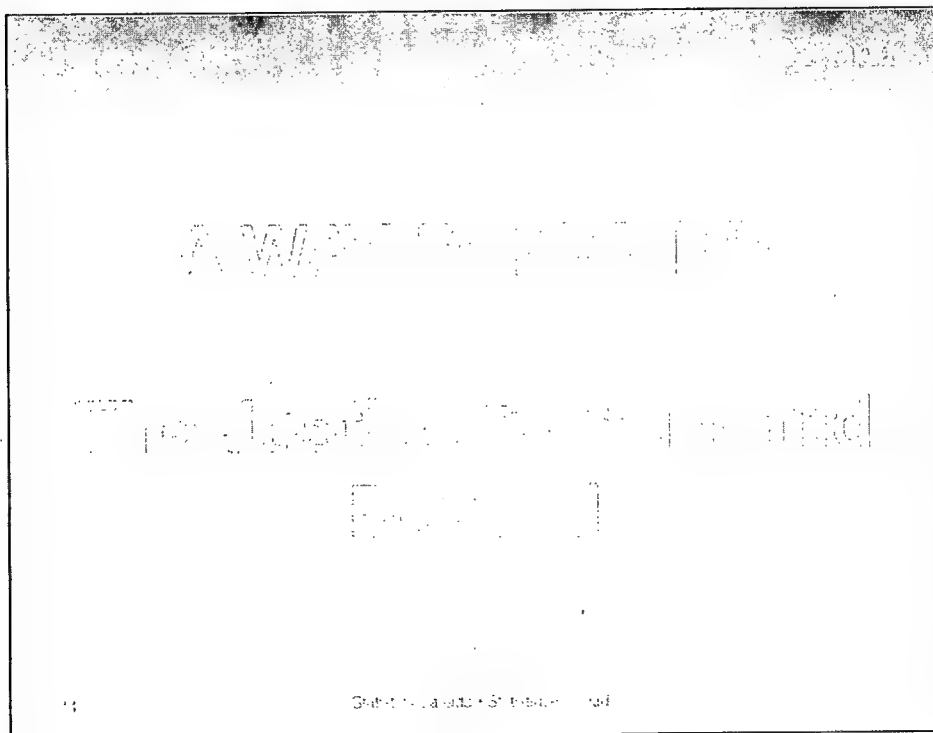


PAUSE

The statistics we presented thus far reflect some of the key findings that can be derived from the current data holdings within the CCJS as well as more widely at Statistics Canada as they relate to issues identified in the Minister of Justice's Mandate Letter. These are only a tiny portion of what is possible even with the existing data.

As mentioned earlier, the NJSI, through the Canadian Centre for Justice Statistics and its partnerships, has established a solid foundation whereby relevant, timely and high quality justice data have been produced and made accessible to all Canadians over the last 35 years. However, we haven't yet been able to address other key emerging priorities of the government and of our provincial and territorial partners in providing for example, solid information on bail conditions and remand, or information about those who come back to the justice system repetitively.

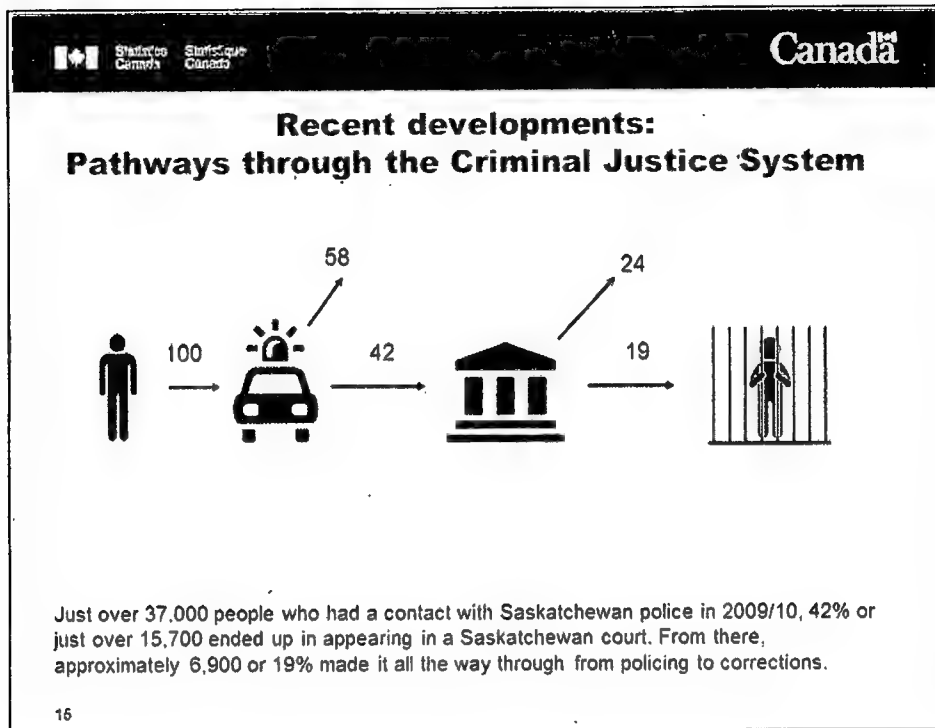
Building on the work already done, a key strategic priority for the CCJS is to strengthen its core program. Central to achieving this objective is a closer examination and seizing of opportunities related to, for example, strengthening the legislative framework. Statistics Canada as a whole needs to more clearly address data sharing with the provinces and territories, and this data-sharing works both ways. →



Essentially, we need to work at removing obstacles to data sharing where there is no legal impediment. This would reduce the burden on Canadians of the combined statistical activities of the federal, provincial and territorial governments while dramatically expanding the potential for analysis and thereby greater understanding of key issues.

Also critical to achieving this objective is ensuring ongoing relevance through survey redesign and development of new data elements. This will help to ensure that the CCJS continues to align with the highest priority information needs of the Deputy Ministers responsible for Justice and Public Safety.

The collection of personal identifiers on micro-data surveys, is one example of new data elements which hold promise for new and innovative ways going forward for looking at crime beyond traditional statistics. The next slide provides a striking example of where this could lead.



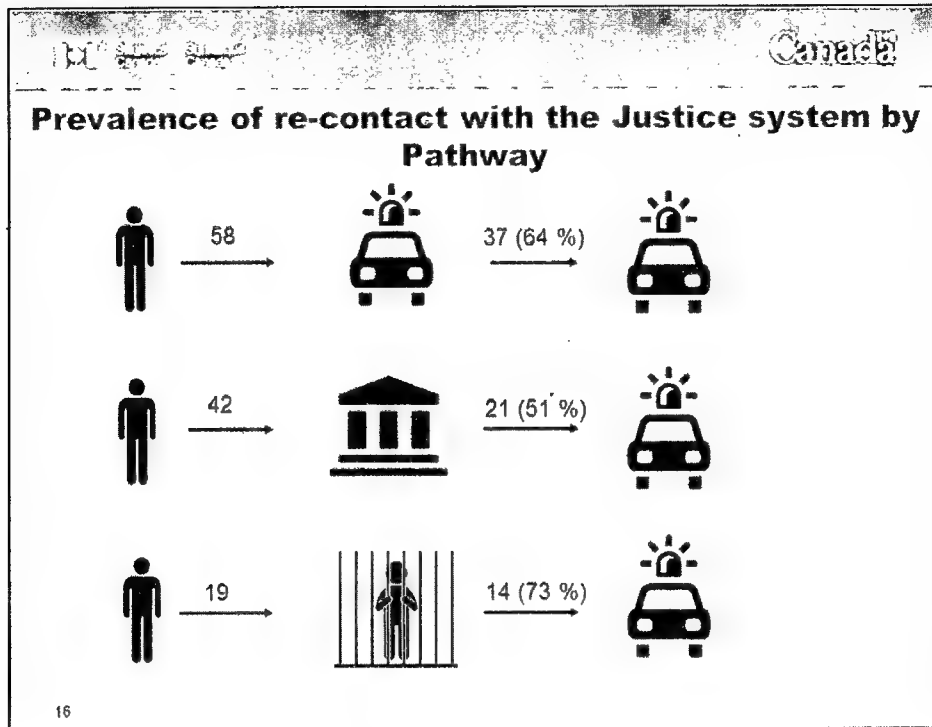
Traditional crime statistics in Canada provide an indication of:

- the number of offences that are committed and their relative seriousness,
- the number and types of charges and cases that are heard in courts
- and the number of admissions and releases from community and custodial correctional programs

but, in general, they supply little data on how many individuals have repeated contact with the system annually or over a number of years.

Recent developments in the linking of administrative data from 3 key sectors of the justice system now make it possible to garner information on those people who have had repeated contact with the justice system.

Looking at results from a recent pilot study undertaken using Saskatchewan justice data, we see that of the 37,000 individuals who came into contact with police in 2009/2010, more than half, 58%, only had contact with this sector of the justice system—that is, they did not have any contact with the court or correctional system as a result of the criminal incident which, in turn, ended their pathway at policing. Of those 42% who appeared in court, close to 1 in 4 ended their pathway in the courts, leaving the remaining 19%, having moved through the entire system, from policing to courts and through to corrections.

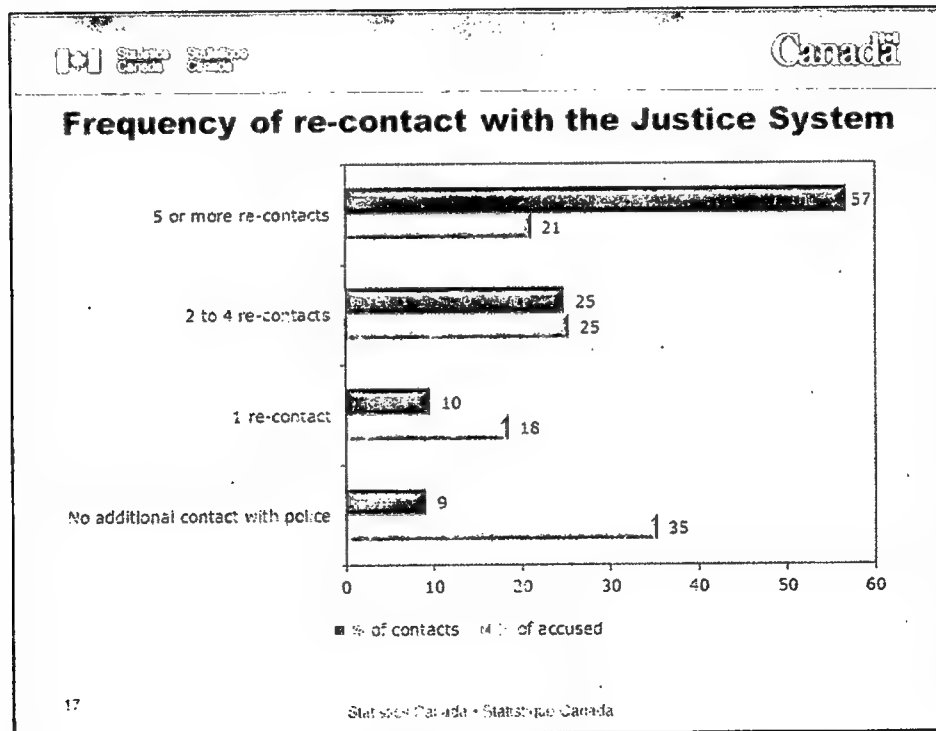


We have seen that not everyone who comes into contact with the system will flow all the way through it - for some their pathway ended at a contact with police, for some it was a pathway through police and courts, and for others it was a flow through the entire system into corrections.

We can also see, through our linkage work, if individuals subsequently return to the justice system after their first contact with police, with the police and courts, or with the police, courts and corrections; that is, do they have a repeat contact or a re-contact with police

The prevalence of re-contact tells us the size of the issue and in the case of Saskatchewan, we can see that, depending on the pathway, at least half of those who came into contact with the system came back within two years. This was especially the case for those whose pathway had taken them all the way through to corrections, of whom almost three quarters returned to the system.

Additional analysis also suggests that youth are particularly susceptible to having repeated contact with the system when they proceed through to further processing within the formal youth justice system and this is most pronounced for Aboriginal youth. Overall, 9 in 10 Aboriginal youth had a re-contact with police following their correctional involvement.



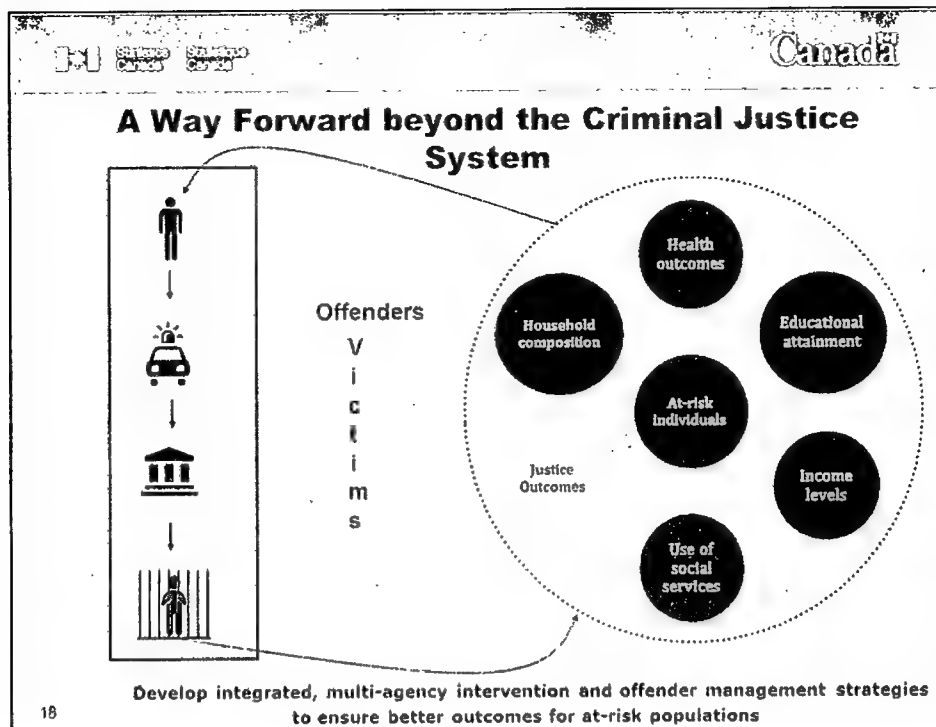
While the prevalence of re-contact from the previous slide gives us some indication of the "size of the issue", frequency of re-contact generates information on how active individuals are or how many times they come back into contact with the justice system.

Overall, the 37,054 individuals who came into contact with police in Saskatchewan in 2009/2010 were responsible for more than 143,000 reported criminal incidents. Of these individuals, 7,800 were responsible for 82,000 incidents, meaning that 21% of accused were responsible for over half, 57%, of those incidents reported from 2009/2010 to 2011/2012.

Once again, it was also found that among all groups, Aboriginal youth having contact with Saskatchewan corrections, had the highest frequency of re-contact. About 6 in 10 Aboriginal youth had 5 or more re-contacts with police following their initial correctional contact. A proportion almost double that of their non-Aboriginal counterparts (31%).

What the initial phases of this study has not been able to do as of yet is to answer "why" and, more specifically, the question, "Why is it that some individuals only have limited contact with the justice system while others have repeated contacts". And moreover, what are their characteristics or risk factors contributing to their repeated involvement with the justice system?

I would now like to provide a brief look at a way forward to extend analysis beyond the criminal justice system itself into the antecedents and consequences of contact with the system.



Crime in Canada is often analyzed and described in isolation of other pertinent social data.

We will be exploring and evaluating the potential for additional data integration, that is, linking the Saskatchewan re-contact cohort to other social domain data. The ability to link information on the same individual across various human and social services is integral to better understanding and better serving the most at-risk clients in Canadian communities. It holds promise for providing a better understanding of those who are caught in the pattern of repeated contacts with justice, health, education, and community services—the high-cost users of all these systems.

Profiles of today's high-cost or high-need clients will assist in identifying tomorrow's possible high need clients and may assist in designing early interventions to stabilize these individuals and possibly help prevent more people from reaching crisis.

Opportunities Going Forward

- **Strengthening the Core**
 - Survey Redesigns
 - Increasing survey coverage
 - Collection of additional personal identifiers
 - Timely updates to surveys based on legislative changes to the *Criminal Code of Canada*
- **Capacity Building**
 - System development in the jurisdiction
 - Analytical skills building
 - Ensure a base for resources development and retention
 - Ongoing collaboration with NJSI partners
 - Fostering academic partnerships
- **Strengthening Legal Framework**
 - Remove obstacles to data access & sharing where there is no legal impediment
 - New provisions within the *Statistics Act*
 - Revisions to the *Youth Criminal Justice Act*

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As we continue to build upon work in areas such as vulnerable populations or re-contact with the justice system, we need to identify and seize various opportunities.

These opportunities fall within 3 key areas including strengthening the core of justice statistics, capacity building and strengthening the legal framework.

Investments in a number of key activities in each of these areas will help to ensure collection, analysis and dissemination of the highest quality justice data which is meaningful and useful for our justice partners, policy-makers and the public.

This will require ongoing investments in key activities aimed at strengthening the core such as:

1. survey redesigns
2. increasing survey coverage
3. collection of additional key data elements such as personal identifiers allowing for greater linkage within justice data as well as to other social domains and
4. ensuring that mechanisms are in place to undertake changes to justice surveys in a timely fashion as dictated by legislative changes and evolving policy needs.



Statistics
Canada

Statistique
Canada

Canada

Occasions pour la suite des choses

- **Renforcement de la base**
 - Remaniement des enquêtes
 - Couverture d'enquête accrue
 - Collecte d'identificateurs personnels supplémentaires
 - Mise à jour des enquêtes en temps opportun selon les changements législatifs au *Code criminel du Canada*
- **Renforcement des capacités**
 - Élaboration de système dans la province/territoire
 - Perfectionnement des compétences en analyse
 - Garantie d'une base de perfectionnement et de maintien des ressources
 - Collaboration permanente avec les partenaires de l'ENRSJ
 - Création de partenariats universitaires
- **Renforcement du cadre juridique**
 - Suppression des obstacles à l'accès aux données et à leur partage quand il n'y a pas d'entrave d'ordre juridique
 - Nouvelles dispositions de la *Loi sur la statistique*
 - Révisions à la *Loi sur le système de justice pénale pour les adolescents*

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Toutefois, le renforcement des statistiques juridiques de base doit être couplé à un certain nombre d'activités ciblées visant la création et le maintien de la capacité appropriée pour entreprendre le travail pour l'avenir. Pour ce faire, il faudra, entre autres choses, poursuivre le travail de collaboration avec les provinces et les territoires concernant l'élaboration du système pour contribuer à la réalisation de l'enregistrement et des rapports sur les éléments clés.

Au moment où nous concentrons nos efforts sur la création d'une plus grande capacité, il sera essentiel de miser sur les partenariats existants et d'en favoriser de nouveaux — avec des universitaires et d'autres personnes, dans différents domaines sociaux.

En allant de l'avant, il sera tout aussi important de veiller à ce que nous travaillions continuellement à cerner et à éliminer les obstacles à l'accès aux données et au partage de celles-ci. Aucun système statistique n'est statique; par conséquent, le cadre juridique dans lequel il fonctionne ne devrait pas l'être non plus. Il faut définir et réaliser de nouvelles révisions et des dispositions supplémentaires relativement à la législation en place pour offrir un meilleur accès aux données, et un meilleur partage de celles-ci, à des fins statistiques et de recherche.

Data gaps

- Economic crimes – consumer fraud, internet fraud, business victimization
- Information related to missing persons
- Superior Court data
- Cyber crimes
- Vulnerable populations – victims becoming offenders
- Bail conditions, bail reforms and remand
- Under-reported crimes
- Efficiency and effectiveness of the criminal justice system
- New laws – impact on data needs
 - Marijuana
 - Assisted suicide

As the government signals its strong commitment to evidence-based decision-making and results-based policy evaluation, Statistics Canada can contribute by producing the required data.

The list found in this slide represents some of the high priority data gaps that have come to our attention based on a recent 2015 consultation with justice partners and stakeholders as well as a number of bilateral discussions with justice and other social data partners around key elements in the new Government's Ministerial Mandate letters.

Whether the data are simply recorded but not reported to Statistics Canada, not currently being collected or they are both being collected and reported but have not been exploited through analysis, we can play a key role in facilitating the communication of needs and setting of relative priorities in this multi-lateral context.

For example, we need to work closely with the Heads of Court Administration to increase survey coverage of Superior Court data as well as bail and remand data to allow for greater analysis and understanding of the underlying pressures and challenges impacting case processing or trends related to the use of remand and bail in Canada.

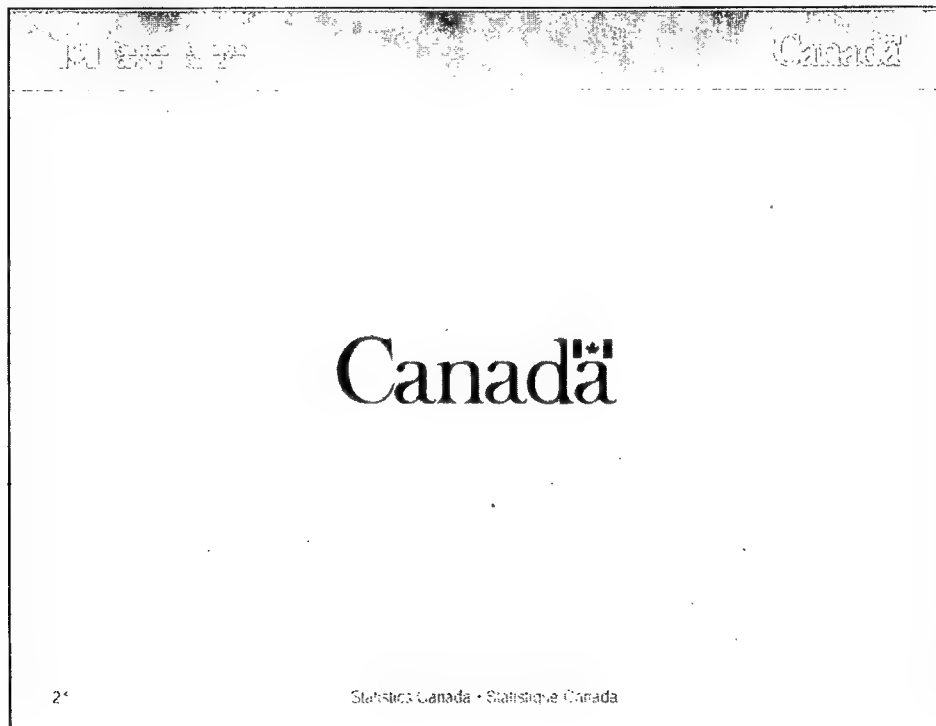
Data gaps

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- Under-reported crimes
- Efficiency and effectiveness of the criminal justice system
- New laws – impact on data needs
 - Marijuana
 - Assisted suicide

Crime is a dynamic social phenomenon, so as crimes change, so does our need for understanding them and the tools required to accurately capture them. We need to better understand the nature and extent of these relatively new crime types which are on the rise such as Cyber crime or a number of economic crimes which may have devastating personal and financial impacts on Canadians.

As we continue our critically important focus on violent victimization of the most vulnerable populations, two areas requiring greater attention include: a greater understanding of the complex and multi-faceted transition from being a victim to becoming an offender and new information needs arise such as high quality, comprehensive data on missing persons.

Through strengthening our partnerships, increasing our collaboration, and looking at new and innovative ways at addressing crime-related issues, Statistics Canada will play a key role in providing the necessary data for policy-makers to undertake evidence and results-based evaluations of the current and future criminal justice system.





FOR INFORMATION

NUMERO DU DOSSIER/FILE #: 2016-012320

COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: Criminal Justice System Review: Follow-up from Roundtable and Next Steps

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- You will be meeting with the Deputy Minister on June 6, 2016, in follow-up to the Minister's Roundtable meeting of May 19-20, 2016, and to discuss next steps for the review of the criminal justice system.
- The purpose of the roundtable was to provide you with an opportunity to receive advice from trusted and experienced experts on the direction, and approach that a review of the criminal justice system should take. The Department will be moving forward on further actions and initiatives to support the review of the criminal justice system and will be seeking your direction.
- Documents are provided at Annexes 1 to 4 to support this conversation.

Soumis par (secteur)/Submitted by (Sector):

Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Caroline Leclerc

Revue dans l'ULM par/Edited in the MLU by:

Sarah McCulloch



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FOR INFORMATION

2016-012320

MEMORANDUM FOR THE MINISTER

Criminal Justice System Review: Follow-up from Roundtable and Next Steps

ISSUE

You will be meeting with the Deputy Minister on June 6, 2016, in follow up to the Minister's Roundtable meeting of May 19-20, 2016. At this meeting, you will also be led through an overview of the short, medium, and long-term planning for the review of the criminal justice system.

BACKGROUND

The purpose of the roundtable was to provide you with an opportunity to receive advice from trusted and experienced experts on the direction, and approach that a review of the criminal justice system should take. Many of the existing assessments on the objectives and scope of the review were affirmed during that exercise. The Department will be moving forward on further actions and initiatives to support the review of the criminal justice system and will be seeking your direction.

CONSIDERATIONS

The criminal justice system review group is in contact with participants of the roundtable conversation, and will be providing them with materials as agreed. For example, a copy of the presentations and remarks that were delivered by the Chief Statistician of Canada will be sent to participants along with a summary report of the proceedings.

You may wish to pursue further contact with some participants of the roundtable either ad hoc, or in a more formalized way. Justice officials will seek your direction on the approach to any desired continuance of exchange.

Another issue that has featured prominently in the roundtable and in the approach to the Review is in the need for a narrative or storyline for criminal justice system reform. This, along with the formalization of objectives for the review, will also be discussed.

CONCLUSION

Documents are provided at Annexes 1 to 4 to support this conversation.

ANNEXES

Annex 1: Minister's Roundtable Participant List and Biographies and Seating Plan

Annex 2: Minister's Roundtable Discussion Summary

Annex 3:

Annex 4:

PREPARED BY

Katie Scrim

Analyst

Criminal Justice System Review

613-957-7283

ANNEX 1

Minister's Roundtable
Participant Seating Layout
May 19-20, 2016




Tab 3iii

Alan Young					Myrna Dawson
Danny Graham					Scott Lekas
Mary Campbell					Brenda Morrison
Breese Davies					Rupert Ross
Bill Trudell					Barry Stuart
Jonathan Rudin					Margaret Parsons
Paula Marshall					Michelle Williams
Patrick Baillie					Thomas Crabtree
Kim Pate					Kim Campbell
Clive Weighill					Raymond Wyant
Anne-Marie Boisvert					Suzanne Costom
Sanjeev Anand					Don Piragoff
	Steve Mihorean	George Thomson	Minister Wilson-Raybould	DM Pentney	




Minister's Roundtable
May 19-20, 2016
Sheraton Gateway Hotel
Toronto, ON


BIOGRAPHIES



<p>GEORGE THOMSON, LL.B., LL.M. FACILITATOR Senior Director of the National Judicial Institute's International Cooperation Group</p> 	<p>George Thomson is currently Senior Director of the National Judicial Institute's International Cooperation Group, where he has played a leadership role in a number of international justice reforms. Mr. Thomson is the former Deputy Minister and Deputy Attorney General of Justice Canada, and former Executive Director of the National Judicial Institute. He also served as Family Court Judge for Frontenac County.</p>
<p>KAREN COHL, LL.B., ASSISTANT FACILITATOR</p> 	<p>Karen Cohl works as a private consultant helping governments and non-profit organizations develop and implement public policy in a range of justice and social policy areas. Karen began her career as legal counsel for the Ontario government and held policy and senior management positions at the Ministry of the Attorney General and the Ministry of Citizenship, including eight years as assistant deputy minister.</p>

Name	Bio	Areas of Expertise
<p>Hon. Sanjeev S. Anand Judge, Provincial Court of Saskatchewan</p> 	<p>Sanjeev Anand is a provincial court judge in Saskatchewan and formerly was Dean of the College of Law at the University of Saskatchewan. Prior to that, he was a professor at the Faculty of Law at the University of Alberta where he taught and conducted research in substantive criminal law, criminal procedure, sentencing, evidence, and constitutional law. Dr. Anand began his career as a Legal Aid staff lawyer. He then worked as a Crown Prosecutor in Edmonton and Counsel in the Criminal Appeals Division of the Alberta Department of Justice. He has participated in many consultations and roundtables with the Department of Justice on Youth justice issues.</p>	<p>Youth criminal justice issues, criminal law, criminal justice system</p>
<p>Patrick Baillie, Ph.D., LL.B. Psychologist, Alberta Health Services, Consulting Psychologist, Calgary Police Service</p> 	<p>Patrick Baillie is currently a senior psychologist with the Alberta Health Services and a consulting psychologist with the Calgary Police Service. He is a former member and Chair of the Mental Health Commission of Canada and continues to provide the Commission with particular expertise around the <i>Not Criminally Responsible Reform Act</i>. Mr. Baillie is also a former member of the Mental Health and the Law Advisory Committee and has served as Legal Counsel to the Provincial Court of Alberta.</p>	<p>Mental health and interactions with the criminal justice system.</p>
<p>Anne-Marie Boisvert, LL.B., LL.M. Professor, Faculty of Law, Université de Montréal</p> 	<p>Anne-Marie Boisvert is an expert in Canadian criminal law. She has been a member of the Quebec Bar since 1985 and has taught at the Faculty of Law at the University of Montreal since 1987. She chaired the Quebec Bar Standing Committee on Criminal Law, the Quebec Provincial Police Complaints Committee and the Quebec government working group to update the Quebec policy of citizens' justice management. She has authored numerous publications and communiqués in the area of Canadian criminal law, and was editor of the <i>Canadian Criminal Law Review</i>, published in 2015.</p>	<p>Criminal law</p>

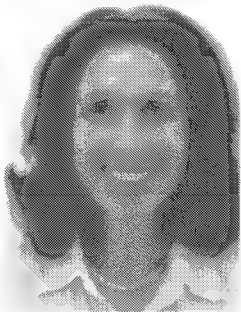

Name	Bio	Areas of Expertise
<p>Right Honourable Kim Campbell Former Prime Minister/Minister of Justice and Attorney General</p> 	<p>Kim Campbell served as Canada's nineteenth and first female Prime Minister in 1993. She previously held cabinet portfolios as Minister of State for Indian Affairs and Northern Development, Minister of Justice and Attorney General of Canada, Minister of National Defence and Minister of Veterans' Affairs. She was the first woman to hold the Justice and Defence portfolios, and the first woman to be Defence Minister of a NATO country. Ms. Campbell participated in major international meetings including the Commonwealth, NATO, the G-7 Summit, and the United Nations General Assembly.</p>	<p>Former Minister of Justice and Attorney General of Canada</p>
<p>Mary Campbell Former Director General of Corrections and Criminal Justice at the Department of Public Safety and Emergency Preparedness Canada (retired)</p> 	<p>Mary Campbell is the former Director General of Corrections and Criminal Justice at Public Safety. She has taken a strong stand on the need for change to the correctional system and the criminal justice system more broadly.</p>	<p>Criminal justice system, particularly corrections</p>
<p>Suzanne Costom, LL.B Defence Attorney at Shadley Battista Costom; Chair of the Canadian Bar Association's National Criminal Justice Section</p>	<p>Suzanne Costom has been a defence attorney at Shadley Battista Costom and its precursor since 1994. From 2005 to 2008, she represented the Ontario Provincial Police before the Cornwall Public Inquiry. Since 2009, Ms. Costom has been an executive member of the National Criminal Justice Committee of the Canadian Bar Association. In that capacity she has appeared before the Standing Committee on Justice and Human Rights. From 1997 to 2010, she was a sessional lecturer at the McGill Faculty of Law, where she has taught courses on evidence and sentencing.</p>	<p>Criminal law and procedure</p>


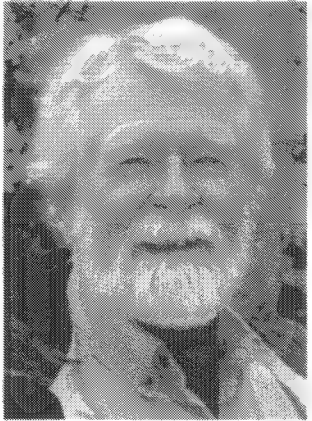

		
Name	Bio	Areas of Expertise
<p>Honourable Thomas Crabtree Chief Judge, Provincial Court of British Columbia</p> 	<p>Judge Thomas Crabtree is a BC provincial court judge and has sat in over 30 different court locations throughout the province (many of which are located in the interior and northern parts of BC). He is on the Board of Directors for the International Society for the Reform of Criminal Law and is very active in judicial education.</p>	<p>Judicial perspective, rural and remote communities</p>
<p>Breese Davies, LL.B. Criminal Lawyer, Breese Davies Law; Vice President of the Criminal Lawyers' Association</p> 	<p>Breese Davies practices exclusively in the area of criminal and quasi-criminal law at the trial and appellate levels. She has extensive experience appearing at all levels of court, including the Court of Appeal for Ontario and the Supreme Court of Canada. Ms. Davies also provides legal advice to corporations on a number of criminal law issues. She is an adjunct professor of Criminology at the University of Toronto and teaches in the part-time LL.M program at Osgoode Hall Law School.</p>	<p>Criminal law</p>
<p>Myrna Dawson, Ph.D. Canada Research Chair in Public Policy in Criminal Justice. Associate Professor of Sociology & Criminology, University of Guelph.</p>	<p>Dr. Myrna Dawson is the Canada Research Chair in Public Policy in Criminal Justice. She is also co-investigator and member of the executive in the Canadian Observatory on the Justice System's Response to Intimate Partner Violence and Academic Research Associate at the Centre for Research and Education on Violence Against Women and Children. Her research focuses on trends and patterns in violence as well as social and legal responses to</p>	<p>Intimate partner violence</p>


	violent victimization with particular emphasis on intimate partner violence and homicide.	
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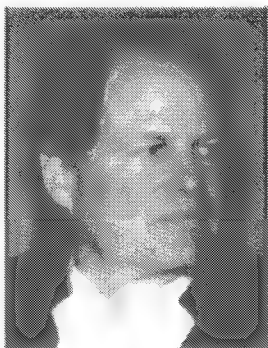

Name	Bio	Areas of Expertise
<p>Danny Graham, Q.C. Lawyer, Special Advisor. Director of the Smart Justice Network; Former leader of Nova Scotia Liberal Party and MLA Halifax-Citadel.</p> 	<p>Danny Graham is currently a Special Advisor to McInnes Cooper (Nova Scotia) on business matters and the firm's Corporate Social Responsibility Program. Mr. Graham has experience as lead counsel in cases at all levels of court, including before the Supreme Court of Canada. He was Vice President of the Canadian Bar Association in Nova Scotia, and was on the National Executive of the CBA Criminal Justice Section. Mr. Graham is affiliated with the Smart Justice Network. Former Leader of the Nova Scotia Liberal Party, former Member of the Legislative Assembly for Halifax Citadel and was Nova Scotia's Chief Negotiator in Aboriginal rights and title negotiations for nine years.</p>	<p>Smart Justice Network, Indigenous justice issues and negotiation</p>
<p>Scott Lekas Director, Seven Seven Sparks Justice Program, Mi'kmaw Native Friendship Centre, Halifax, Nova Scotia.</p> 	<p>Scott Lekas is the Director of the Seven Sparks Justice Program which leads Aboriginal federal offenders through activities to help turn their lives around and provides them with supportive transitional housing and a place to learn about their culture. The program employs innovative methods and participants get in touch with their roots through talking circles, bow making, fishing, smudging, traditional feasts and sweats. The program's elder goes to AA with participants and encourages participants to learn trades, go back to school and determine what they want from life.</p>	<p>Indigenous offenders, reintegration</p>



Paula Marshall Program Manager, Mi'kmaq Legal Support Network, Nova Scotia (No photo available)	The Mi'kmaq Legal Support Network (MLSN) exists as a justice support system for Aboriginal people who are involved in the criminal justice system in Nova Scotia. MLSN programs and services help bridge gaps between mainstream justice system and Aboriginal values but is often found that the criminal justice system needs to be more receptive to Mi'kmaq concepts of justice.	Legal support for Indigenous (Mi'kmaq) people
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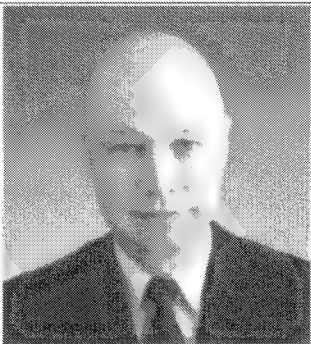
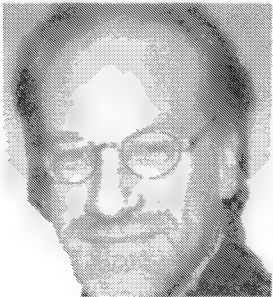
Name	Bio	Areas of Expertise
Brenda Morrison, Ph.D. Director, Centre for Restorative Justice and Assistant Professor of Criminology at Simon Fraser University 	Dr. Brenda Morrison is a member of the Smart Justice Network and an articulate spokesperson on restorative justice approaches. She is a research partner with PREVNet (Promoting Relationships Eliminating Violence Network), within Canada's Networks of Centres of Excellence. She is Co-Chair of the Safe Schools and Communities Special Interest Group of the American Education Research Association and a member of the Scientific Committee of the International Observatory of Violence in Schools.	Restorative Justice
Margaret Parsons, LL.B Executive Director, African Canadian Legal Clinic (Toronto) 	Margaret Parsons is the Executive Director of the African Canadian Legal Clinic (ACLC). The ACLC was established in 1994 to address anti-Black racism and other forms of systemic and institutional discrimination in the justice system, education, employment, housing, health care and other spheres of society. Ms. Parsons helped to develop and co-ordinate the first African Canadian Court Worker Program in Ontario. Under her leadership, the ACLC has appeared on behalf of African Canadians in precedent setting cases at the Supreme Court of Canada and the Ontario Court of Appeal. Ms. Parsons represented the Americas region on the Co-ordinating Committee of the United Nations for the Non-governmental Organizations Forum at the World Conference Against Racism.	African Canadians in the justice system

<p>Kim Pate, CM Executive Director, Canadian Association of Elizabeth Fry Societies</p> 	<p>Kim Pate is the Executive Director of the Canadian Association of Elizabeth Fry Societies (CAEFS). CAEFS is an association of self-governing, community-based Elizabeth Fry Societies that work with and for women and girls in the justice system, particularly those who are, or may be, criminalized. In 2014, Ms. Pate was named a Member of the Order of Canada for advocating on behalf of women who are marginalized, victimized or incarcerated, and for her research on women in the criminal justice system.</p>	<p>Women and girls in the criminal justice system</p>
Name	Bio	Areas of Expertise
<p>Rupert Ross Former Assistant Crown Attorney, Kenora, ON (retired)</p> 	<p>Rupert Ross worked with the Ontario Ministry of the Attorney General as an assistant Crown Attorney from 1985 until his retirement. He conducted criminal prosecutions in Kenora and over twenty remote, fly-in Aboriginal communities in northwestern Ontario. Between 1992 and 1995, following which he was seconded to the federal Aboriginal Justice Directorate where he travelled across Canada examining Aboriginal approaches to justice with special emphasis on healing programs for victims, offenders, families, and communities.</p>	<p>Indigenous, northern, and remote perspectives into the criminal justice system</p>
<p>Jonathan Rudin, LL.B, LL.M Executive Director of Aboriginal Legal Services Toronto</p> 	<p>Jonathan Rudin is the Executive Director of the Aboriginal Legal Services. He is an expert on Gladue provisions and on accommodating accused persons affected by Fetal Alcohol Spectrum Disorder in the criminal justice system. He co-wrote the Royal Commission on Aboriginal Peoples' report on Justice – <i>Bridging the Cultural Divide</i> - and was a member of the Research Advisory Committee of the Ipperwash Inquiry.</p>	<p>Gladue, Indigenous justice issues</p>

<p>Wayne Smith Chief Statistician of Canada (May 20th only)</p> 	<p>Wayne Smith is the Chief Statistician of Canada.</p>	<p>Chief Statistician, Statistics Canada</p>
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Name	Bio	Areas of Expertise
<p>Hon. Barry Stuart Chief Judge, Yukon (retired)</p> 	<p>Barry Stuart, retired Chief Justice of the Yukon Territorial Court, has 25 years of experience as both judge and mediator in resolving disputes. He was the first judge to bring Circle Sentencing to Canada. An internationally respected leader in multiparty conflict resolution, he has pioneered the use of Peacemaking Circles for public processes in North America over the last twenty years. His professional interests have always centered on decision-making processes, dispute and conflict resolution, and the design and development of consensus-building processes.</p>	<p>Sentencing circles, community-based restorative justice practices, northern perspective</p>
<p>William (Bill) Trudell, LL.B Criminal Lawyer. Chair, Canadian Council of Defense Lawyers.</p> 	<p>Bill Trudell is a very experienced criminal lawyer. He was a Director of the John Howard Society, former Director of the Ontario Criminal Lawyers' Association, and former Vice President of the Criminal Lawyers' Association. He is a tireless advocate for both protection of our criminal justice system and its reform with a particular passion about the issue of mental illness and addressing those with mental illness who appear in our criminal courts.</p>	<p>Criminal justice system</p>

<p>Chief Clive Weighill President of the Canadian Association of Chiefs of Police. Chief of Saskatoon Police Service.</p> 	<p>Chief Clive Weighill is the current President of the Canadian Association of Chiefs of Police (since 2014). Chief Weighill served 31 years with the Regina Police Service, prior to joining the Saskatoon Police Service in 2006. He has appeared before Parliamentary Committees regarding crime trends, community policing, organized crime, street gangs, vehicle theft, leadership, and the future of policing. He has an understanding of the intersections between the mental health and criminal justice systems, and is well versed in the interactions between vulnerable and marginalized members of society and the criminal justice system and has called for action to addressing the underlying issues leading to those intersections.</p>	<p>Policing</p>
Name	Bio	Areas of Expertise
<p>Michelle Williams, LL.B, LL.M. Senior Instructor, Schulich School of Law, Dalhousie. Director, Indigenous, Blacks and Mikmaq Initiative.</p> 	<p>Michelle Williams is a Senior Instructor at the Schulich School of Law. She has been a member of the Ontario Bar since 1996 and practiced with the African Canadian Legal Clinic undertaking test case litigation to challenge anti-Black racism. She has represented Canada at the UN Commission on the Status of Women and the Organization for Security and Cooperation in Europe (OSCE). Her research interests include critical race theory, critical race feminism, African Canadians and the law, restorative justice, and the practice of domestic and global public interest law.</p>	<p>African Canadians and the justice system</p>
<p>Hon. Raymond Wyant Former Chief Judge, Provincial Court of Manitoba. Chair of the National Criminal Justice Symposium</p>	<p>Raymond Wyant is the former Chief Judge of the Provincial Court of Manitoba. Prior to his appointment, he was a Crown Attorney who won the 2006 United Nations Public Service Award for Improving Delivery of Service for leading an innovative, coordinated approach to processing domestic violence cases, earning national and international attention.</p>	<p>Criminal justice system</p>

		
<p>Alan Young, LL.B, LL.M Associate Professor, Osgoode Hall Law. Criminal Lawyer</p> 	<p>Alan Young is an Associate Professor at Osgoode Hall law school, and co-founder and Director of Osgoode's Innocence Project. He has represented a number of clients in cases related to the regulation of consensual activities. In 2010, he persuaded the Superior Court of Ontario to overturn three key provisions of the Criminal Code related to prostitution in Bedford v. Canada. In 2008 he won a case in Federal Court ruling that determined that parts of Canada's medical marijuana laws were unconstitutional.</p>	<p>Criminal law and procedure</p>

ANNEX 2

Overview

In support of her efforts to lead a review of the Canadian criminal justice system the Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, assembled a distinguished group of criminal justice system stakeholders for a conversation of possibility around some of the initial priorities and processes relating to the review. The stated intention was to benefit from the deep experience and vision of participants. This discussion was one early key part of what will become a thoughtful and informed look at the criminal justice system that ultimately identifies needed longer-term reforms, while also addressing shorter-term pressures.

To support unencumbered exchanges among participants, a non-attribution rule was in place. This discussion summary provides the core takeaways around each of the agenda items.

Background

In her mandate letter from the Prime Minister of Canada (<http://pm.gc.ca/eng/minister-justice-and-attorney-general-canada-mandate-letter>), Minister Wilson-Raybould was instructed to "conduct a review of the changes in the criminal justice system and sentencing reforms over the past decade with a mandate to assess the changes, ensure that we are increasing the safety of our communities, getting value for money, addressing gaps and ensuring that current provisions are aligned with the objectives of the criminal justice system." The conversation at this roundtable was in direct support of this mandate and will help to frame the review. It is intended to be the first of many conversations and engagements the Minister will have with stakeholders, partners, and Canadians over the course of this review.

Objectives of the Review

The purpose of this discussion was an initial sounding on the possible objectives of the criminal justice system review (the Review), taking the opportunity to position the country for success and meaningful change. Conversation began with the recognition of the possibility for positive change that the Review offers. Participants welcomed a broad interpretation of the Minister's mandate to undertake the Review. Specifically, that the Review could and should do more than assess changes over the past decade but provide

an overview of the system as a whole and its relationships to other systems. All acknowledged that many of outcomes of the Review would only be fully realized well-beyond the current mandate. The Review could be a foundational starting point for systemic change, provided it was not narrowly focused. The discussion around the objectives of the Review was intermingled with interventions on the need to revisit and recommit to the basic principles of the criminal justice system and the criminal law – while identifying and accounting for today's very different society. Objectives should be plainly expressed, meaningful, and understood by Canadians. Respecting and supporting Indigenous legal systems and processes that respect Aboriginal principles must also be considered.

There was a feeling that Canadians were not widely engaged around the purpose of the criminal justice system and that they needed to be. A renewed engagement would heighten awareness and understanding of issues which in turn would raise Canadians expectations and ultimately boost their expressed confidence in the system.

Among several concrete suggestions of objectives for the Review were offered:

- Reduction in the over-representation of vulnerable/marginalized groups within the criminal justice system. Simply put, “breathe life into the Charter”.
- A system that is based on evidence and sound information to facilitate the ability to “scale up the successes”.
- A requirement to take into account the underlying factors contributing to offending and victimization
- A principled approach towards adopting national standards that would address the intersection of the criminal justice system with other social systems (i.e., a system that encourages early access to other systems)

Currently there exist many barriers to innovation and creativity. A decisive move towards systems of social engagement and processes that involve the vulnerable and marginalized could promote resolutions within those communities that are most affected.

Above all else, the justice system should “do no harm”.

Process

There was a rich discussion on implementation and process. Many discrete reforms can be done now. We know what is needed and in what areas, we should do them and move beyond the normal reflex of problem identification exercises which delay action. There was support for an approach that adopts a longer-term perspective and strategy. Given the enormity of the task and the potential that exists, consider resisting the urge to act quickly the process for the Review can be iterative rather than directive.

There is merit in a process that very deliberately extends well beyond the criminal justice system. Engagement must be as diverse in approach as it is in the populations it reaches. In that sense, it will be important to truly, respectfully, and fully engage all Canadians (especially those most vulnerable and marginalized). Look to find those successes and positive local initiatives within the existing system and scale them.

Key System Issues and Pressures

The purpose of this discussion was to identify key system issues and pressures that are leading to many unintended outcomes for many Canadians. The conversation began with a discussion about the level of discretion across the system which can induce a highly risk averse culture. Incarceration is currently over emphasized.

Discrete sentencing and legislative reforms must continue under the rubric of the Review to address foundational questions of efficiency and fairness, for example. There are some laws that are no longer relevant to our modern world. The rise in specialized courts is a sign that the system is failing, characterized as a band aid solution to a disease. Silos within the system persist and as they do, they inhibit.

There needs to be a conscious move away from the very reactive model that “places the ambulance at the bottom of the cliff”, to one that anticipates. There needs to be a focus on the right offences and populations. Currently there is an over-criminalization of the symptoms of vulnerable and marginalized people and of less serious behaviour. Overrepresentation was considered among the most important issues that the Review should address.

Evidence-based approach to change – pathways through the criminal justice system

A presentation by the Chief Statistician of Canada provided context for this portion of the conversation. Examples of data as well as some of the key initiatives that are currently being undertaken within Statistics Canada that are relevant to the review of the criminal justice system were highlighted.

The necessity for partnership was made clear. Namely, increasing our collaboration, and looking at new and innovative ways at addressing crime-related issues, Statistics Canada will play a key role in providing the necessary data for policy-makers to undertake evidence and results-based evaluations of the current and future criminal justice system.

The Review is an opportunity to strengthen our ability to know what is happening within the criminal justice system and can move us further towards having the right data to make decisions that can meaningfully impact the lives of Canadians. The lack of disaggregated data across the system is preventing informed decisions and action.

How do we get there?

This discussion focused on the opportunities for making linkages within and beyond the criminal justice system as well as practical approaches to the Review. This discussion was well-framed by one participant who urged: “never forget that the justice system belongs to the people.” Deal with the needs of the individual rather than criminalizing their behavior. The criminal justice system must be reserved only for those cases where justified – recognizing the criminal justice system is rarely the answer and functions as a last resort. The importance of adopting a discourse that centers around Canadian values was signaled.

Partnership and collaboration were considered among the key tenets of the Review’s potential success. Early and earnest engagement with provincial and territorial partners should be the default. Active engagement of actors within other systems (e.g. health, education, child welfare) is also necessary. The simple act of increasing the diversity within the system will empower expert, advocacy, and citizens’ communities – look to build on their strengths and scale their successes.

Additionally, the following discrete suggestions of tangible actions were made:

- Involve the business community as they have the levers and capacity, once engaged, to deliver results quickly.
- Involve Canadians – take the opportunity to educate
- Involve the media, including social media, then use them

Early Actions

The conversation focused on areas and substantive ideas for early action. Apart from the following possibilities, there was general agreement around the importance of taking the time to first establish the narrative on which any reforms, and ultimately outcomes of the Review will rest. It was within the conversation around the Review’s narrative that the suggestion for a “strong restorative justice signal” be included.

The following items were listed by participants as areas suitable, and perhaps warranting, the early attention of the Review:

- Review of existing mandatory minimum penalty provisions
- Revisit use of conditional sentencing orders
- Victim surcharge
- Examine use of segregation and solitary confinement
- Pre-trial custody credit
- Examine pardon mechanism(s)

DRAFT for discussion only

Thursday, June 02, 2016

A diversity of additional, yet broader, areas for action were also discussed by participants. These ranged from examining the dangerous offender process and the process of judicial appointments, to exploring the merits of a unified criminal court. Bail reform as a discrete area for sustained action also featured throughout this portion of the conversation.

Concluding thoughts

Participants offered sober reflections and advice to end the roundtable conversation, including:

- Extraneous circumstances and events, which are unforeseeable to us today, will hijack the agenda – use them as they can be an effective way to attract and commit public interest.
- Beware: passing legislation versus implementing it.
- Educate the media – social media levels the playing field
- Use Senators and Members of Parliament in consultation
- Always include your sceptics

The conversation ended as it began, with a great sense of optimism and hope. The Review is a critical, and yet, rare opportunity to truly create a criminal justice system that is just, compassionate and reflective of the values of all Canadians.

Note

This discussion summary should by no means be considered the definitive record of this engagement, as it has been compiled by an observer of the proceedings. Any errors or omissions are those of the author

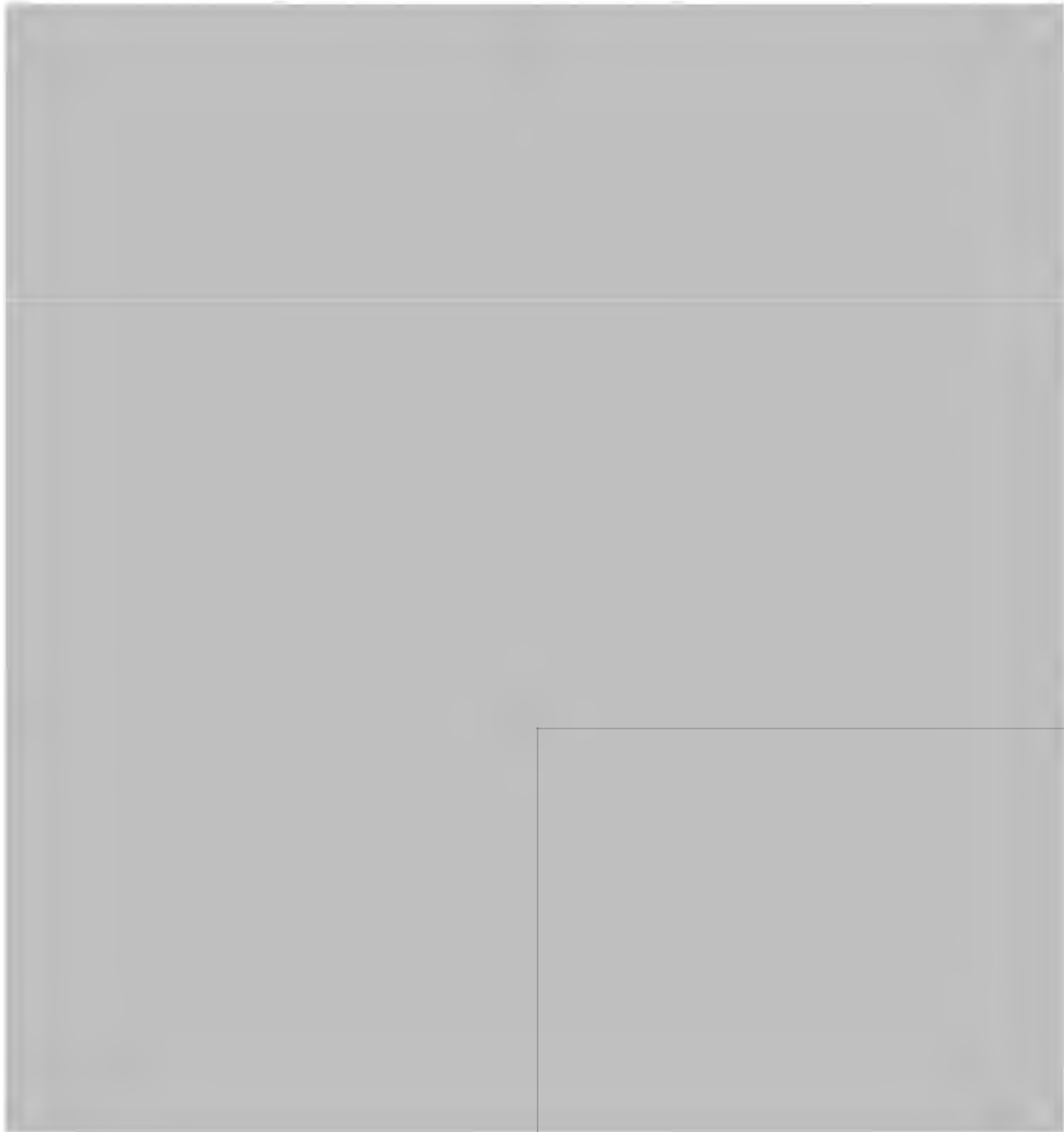
Prepared by:

Katie Scrim
Criminal Justice System Review
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ANNEX 3

DRAFT for discussion only

Wednesday, June-01-16



s.21(1)(a)
s.21(1)(b)

Page 131

**is withheld pursuant to sections
est retenue en vertu des articles**

21(1)(a), 21(1)(b)

**of the Access to Information Act
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ANNEX 4

s.21(1)(a)

s.21(1)(b)

MIN/DM briefing

June 6, 2016

DRAFT - not for distribution

**Pages 134 to / à 139
are withheld pursuant to sections
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21(1)(a), 21(1)(b)

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Department of Justice
Canada

Ministère de la Justice
Canada

SCENARIO

NUMERO DU DOSSIER/FILE #: 2016-012411

COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

**TITRE/TITLE: Meeting with the Canadian Federation of Students, National Aboriginal
Caucus**

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

s.19(1)

- You are scheduled to meet with [REDACTED] who are members of the National Aboriginal Caucus of the Canadian Federation of Students (CFS) on Tuesday June 14, 2016, at 3:30 p.m. for 15 minutes, in your office on the Hill. The purpose of the meeting is to discuss how students and youth can be best represented in the MMIWG Inquiry process.
- After the Inquiry begins, the CFS may approach the Commission to offer to play a key role in reaching out to Indigenous youth in post-secondary education and organizing their input.
- In addition to their direct input into the Inquiry, the CFS may also have useful input about related issues that may be eligible for federal funding.

Soumis par (secteur)/Submitted by (Sector):

Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Claudine Patry

Revue dans l'ULM par/Edited in the MLU by:

Sarah McCulloch

Soumis au CM/Submitted to MO: 10 June 2015

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SCENARIO

2016-012411

MEMORANDUM FOR THE MINISTER

Meeting with the Canadian Federation of Students, National Aboriginal Caucus

ISSUE

s.19(1)

You are scheduled to meet with [REDACTED] who are members of the National Aboriginal Caucus of the Canadian Federation of Students (CFS) on Tuesday June 14, 2016, at 3:30 p.m. for 15 minutes, in your office on the Hill. The purpose of the meeting is to discuss how students and youth can be best represented in the MMIWG Inquiry process.

BACKGROUND

The CFS is the largest association of students in Canada, focussing primarily on issues related to accessible and affordable post-secondary education. The Federation takes positions on other social issues affecting students, from time-to-time.

One of these issues is the disproportionate level of violence against Indigenous women and girls, including the issue of missing and murdered Indigenous women and girls. Given the significant proportion of cases affecting young women, the Federation has worked with the Native Women's Association of Canada, Amnesty International and others to call for an end to the violence, and a National Inquiry, since at least 2008. The Federation issued a news release in support of the Government of Canada's December 2015 announcement of the launch of the National Inquiry into Missing and Murdered Indigenous Women and Girls, attached at Annex 2.

The National Aboriginal Caucus has also been involved in a campaign to end negative gender stereotyping of Indigenous women (attached at Annex 3), and have expressed support for the recommendations of the Truth and Reconciliation Commission.

CONSIDERATIONS

The CFS and its National Aboriginal Caucus have long supported the importance of access to, post-secondary education for Indigenous youth, and its key role and responsibility in increasing effective advocacy for positive change in Indigenous communities. The National Aboriginal Caucus of the CFS had asked for opportunities for Indigenous youth to be involved in the pre-Inquiry engagement, including by holding sessions on university campuses.

After the Inquiry begins, the CFS may approach the Commission to offer to play a role in reaching out to Indigenous youth in post-secondary education and organizing their input. In addition to their direct input into the Inquiry, however, they may have useful input about issues including:

1. how to effectively reach young Indigenous people in post-secondary schools concerning the need for safety planning;
2. how to mentor young people in communities who do not see the importance of education;
3. how to break inter-generational cycles of violence and abuse in some communities;
4. how to assist young people when they are first moving to urban centres with regard to safety; and
5. how to address public stereotypes and other barriers that young Indigenous students face in their education.

The CFS may be able to access some federal funding for projects in these areas. In particular, projects involving the first, third and fourth areas above may be eligible for funding under the Justice Partnership and Innovation Fund.

CONCLUSION

Suggested talking points are attached to support you during this meeting.

ANNEXES

- Annex 1: Suggested Talking Points
Annex 2: News release regarding National Inquiry
Annex 3: Media report concerning #notyourstereotype

PREPARED BY

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ANNEX 1



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2016-012411

Talking Points

Meeting with the Canadian Federation of Students, National Aboriginal Caucus

- **As you likely know, the Inquiry will be independent from the government.**
- **After the Inquiry begins, I would encourage you to approach the Commission to offer to play a key role in reaching out to Indigenous youth in post-secondary education and organizing their input.**
- **Beyond having direct input into the Inquiry, however, we would be interested in your ideas about related issues. The Government does not intend to wait until the Inquiry is over before moving ahead.**
- **I would welcome your ideas on issues such as:**
 - **how to effectively reach young Indigenous people in post-secondary schools concerning the need for safety planning;**

- how to mentor young people in communities who do not see the importance of education;
 - how to break inter-generational cycles of violence and abuse in some communities;
 - how to assist young people when they are first moving to urban centres with regard to safety; and
 - how to address public stereotypes and other barriers that young Indigenous students face in their education.
-
- You may be able to access some federal funding for projects in these areas. In particular, projects involving the first, third and fourth areas above may be eligible for funding under the Justice Partnership and Innovation Fund.

PREPARED BY
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ANNEX 2

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No More Stolen Sisters: Canada's Students Welcome National Inquiry



English▼

OTTAWA, Dec. 8, 2015 /CNW/ - The National Aboriginal Caucus of the Canadian Federation of Students, the voice for Aboriginal Students in Canada, welcomes the federal government's commitment today to begin phase one of a national inquiry on Missing and Murdered Indigenous Women, Girls and Two-Spirited people.

"First Nations, Metis, and Inuit students are encouraged to hear that the voices survivors, family members and loved ones will inform the design of the inquiry," said Coty Zachariah, Chairperson of the National Aboriginal Caucus of the Canadian Federation of Students, "Though it is with heavy hearts that we welcome this long-overdue inquiry, as it has taken over 1,100 cases of missing and murdered Indigenous women, girls and two-spirited people to push the Government of Canada to act".

In recognizing that half of the recorded cases of missing and murdered Indigenous women, girls and two-spirited people are young people, the National Aboriginal Caucus strongly recommends that the consultation and inquiry processes involve student representation and an opportunity for young people to engage on university and college campuses.

The National Aboriginal Caucus is Canada's only national Aboriginal student organization, united through the Canadian Federation of Students. The Federation is Canada's largest student organization, uniting more than one-half million students across Canada. The Canadian Federation of Students and its predecessor organizations have represented students in Canada since 1927 in their call for fully accessible public post-secondary education.

SOURCE Canadian Federation of Students

For further information: Sarah McCue, Communications Coordinator, 613-797-6626 or s.mccue@cfs-fcee.ca

RELATED LINKS

<http://www.cfs-fcee.ca> (<http://www.cfs-fcee.ca>)

Organization Profile



Canadian Federation of Students



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Parliamentary Budget Officer's Report Confirms User-Fee Model of Public Post-Secondary Education Benefits The Wealthy (<http://www.newswire.ca/news-releases/parliamentary-budget-officers-report-confirms-user-fee-model-of-public-post-secondary-education-benefits-the-wealthy-578269221.html>)

Media Advisory - National Chairperson Bilan Arte Available to Comment on Today's 3 Major Post-Secondary Announcements (<http://www.newswire.ca/news-releases/media-advisory---national-chairperson-bilan-arte-available-to-comment-on-todays-3-major-post-secondary-announcements-575736241.html>)

Federal Government Must Support Métis and Non-Status First Nations Students Following R v. Daniels Decision (<http://www.newswire.ca/news-releases/federal-government-must-support-metis-and-non-status-first-nations-students-following-r-v-daniels-decision-575714611.html>)

More on this organization (<http://www.newswire.ca/news/canadian-federation-of-students>)

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ANNEX 3

Culture is not a costume, says National Aboriginal Caucus

KERRY BENJOE, LEADER-POST 10.29.2015 |



Chasity Delorme an FNUNiv student and member of the Canadian Federation of Students has created poster called "not your stereotype". She is asking people NOT to dress in "indigenous-themed" costumes this Halloween. *BRYAN SCHLOSSER / REGINA LEADER-POST*

REGINA — It's not OK to be Poca-hottie or a Sassy Squaw, says Chasity Delorme.

As the representative for the National Aboriginal Caucus for the Canadian Federation of Students, she is urging last-minute Halloween shoppers to think before purchasing a culturally themed costume.

"We want to educate not only universities, but communities about cultural appropriation and mocking cultures, not just First Nations but other cultures," said Delorme. "Basically, if a costume is offending somebody it takes the fun out of Halloween."

To help combat stereotypes the CFS has launched a national poster campaign depicting real images of indigenous people wearing their cultural regalia with the words, This is Halloween, choose respect, It's our culture not a costume.

It is a spinoff from a photo challenge called #notyourstereotype that she started last year.

She decided to use real images of real people on her poster because she did not want to promote Halloween costumes like Poca-hottie.

"The costumes that are commercialized are based on stereotypes," said Delorme. "They are totally ridiculous."

She knows it's going to take a lot of work to change things, but is up for the challenge.

"I recently watched a newscast and one of the owners of a (costume store) felt there was nothing wrong with having the different cultures displayed as costumes," said Delorme. "So that means there's a lot of work to be done. It's disappointing, but on a positive note more

awareness is being brought to the situation. Whereas in years past, we didn't have as strong of a voice as we do now."

Her ultimate goal is to not have the costumes in stores next year, so the work needs to start now, she said.

Sexualizing indigenous women with costumes is also wrong.

"Historically, we covered ourselves from shoulder to toe because of the respect that we had and have for our bodies and that is not depicted in any of the costumes on store shelves," said Delorme. "Especially with all the other issues out there like our missing and murdered indigenous women, that doesn't help sexualizing women in that manner."

She said to add insult to injury many of the costumes are just a combination of indigenous items that make no sense.

"There is one costume out there that is just a headdress, a mini skirt paired with mukluks," said Delorme. "They just come up with their own I don't even know what to call them."

She believes by putting out positive images of indigenous people does help to combat the negative images.

But that goes for any culture whether its First Nation, Metis, Chinese, Japanese or Indian, said Delorme.

More information on the campaign and work by the aboriginal caucus is available online at www.cfs-fcee.ca.

kbenjoe@leaderpost.com (<mailto:kbenjoe@leaderpost.com>)

Regina Flyers



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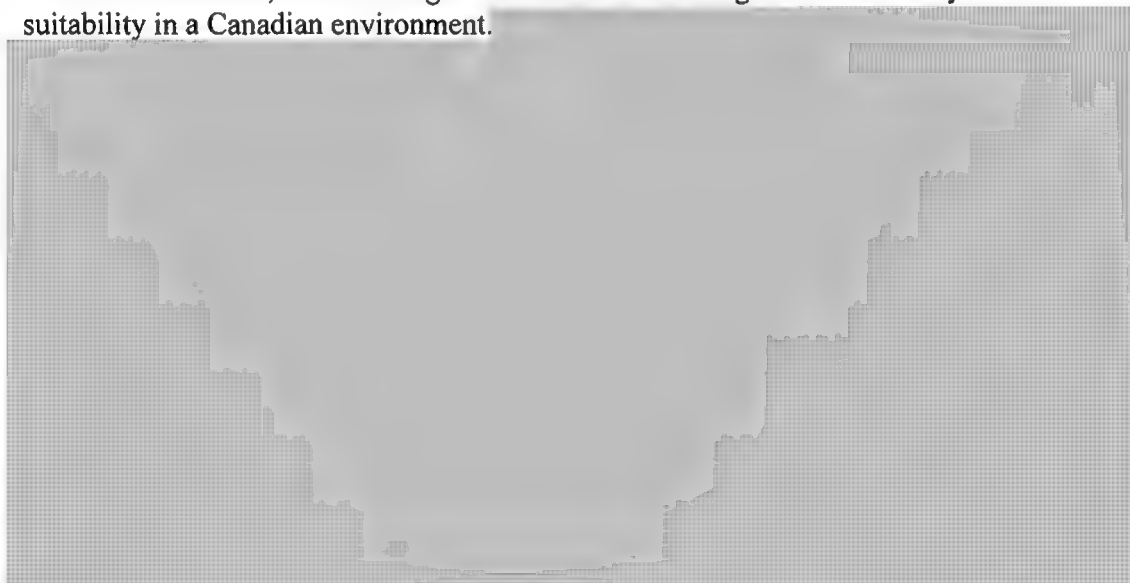
Ministère de la Justice
Canada

SCENARIO
NUMERO DU DOSSIER/FILE #: 2016-012472
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Secret

TITRE/TITLE: Meeting with Mothers Against Drunk Driving Canada

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- You are scheduled to meet with Mothers Against Drunk Driving (MADD) Canada on Tuesday June 7, 2016, at 8:00 a.m. at your office on the Hill. This note provides information regarding impaired driving in the context of your meeting and suggested talking points are attached at Annex 1.
- It is anticipated that in your meeting, MADD will raise the issue of legal limits for drugs and mandatory roadside oral fluid drug screening tests in Canada.
- Legal limits for tetrahydrocannabinol (THC), the impairing ingredient in cannabis, has been established in other jurisdictions (e.g., some US states, UK). In Canada, the Drugs and Driving Committee of the Canadian Centre of Forensic Sciences, the Government advisor on the issue, is examining limits and oral screening kits for accuracy and suitability in a Canadian environment.



- Justice officials continue to work on issues relating to drug-impaired driving.

s.21(1)(a)
s.21(1)(b)

Soumis par (secteur)/Submitted by (Sector):

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SCENARIO

2016-012472

MEMORANDUM FOR THE MINISTER

Meeting with Mothers Against Drunk Driving (MADD) Canada

ISSUE

You are scheduled to meet with Mothers Against Drunk Driving (MADD) Canada on Tuesday June 7, 2016, at 8:00 a.m. at your office on the Hill. This note provides information regarding impaired driving in the context of your meeting and suggested talking points are attached at Annex 1.

BACKGROUND

Impaired driving continues to kill and injure more Canadians than any other crime. In 2013, 97% of impaired driving incidents involved alcohol and 3% involved drugs. Experts believe that drug-impaired driving is under-reported as it is more difficult for police to detect impairment by a drug. Cannabis is the most common impairing drug found in drivers. In a 2012 survey of drivers in British Columbia, 10.1% tested positive for drugs. Of these, 43.6% tested positive for cannabis and 33.0% tested positive for cocaine.

The *Criminal Code* prohibits driving while impaired by alcohol or drugs, or a combination of them. It is a separate offence to drive with a Blood Alcohol Concentration (BAC) in excess of 80 mg of alcohol in 100 ml of blood (over 80). There is no similar legal limit for drugs. The science with respect to many impairing drugs is not as advanced as it is for alcohol, which is a legal drug and is very well-researched and understood. For some drugs, absorption and elimination rates are not very stable across the population; therefore recommending a legal limit is more complicated than with alcohol, for which rates are quite stable. Nor are there any tools provided by legislation for roadside drug level screening that would parallel the screening devices used in over 80mg of BAC enforcement.

Police can lay a charge of drug-impaired driving when there are signs of impairment and evidence that impairment is caused by a drug. The signs of drug-impairment vary depending on the drug and, without training, drug-impairment can be hard to detect. The *Criminal Code* authorizes the police to demand that a driver perform field sobriety tests. If the person fails the test, the officer could then demand that an evaluation be conducted by a trained Drug Recognition and Evaluation (DRE) officer to determine whether the person is impaired by a drug and, if so, which class of drug.

s.21(1)(a)
s.21(1)(b)

MADD Canada's purpose is to prevent impaired driving and support victims.

s.21(1)(a)

s.21(1)(b)

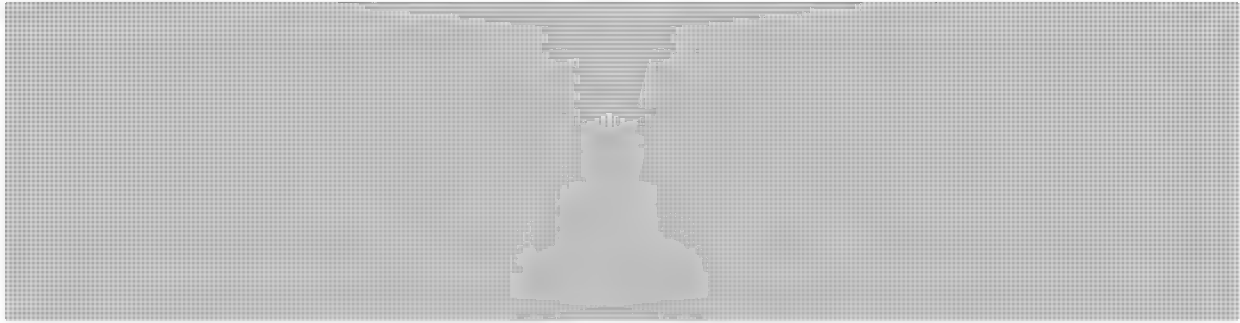
s.23

CONSIDERATIONS

s.21(1)(a)

s.21(1)(b)

s.23



CONCLUSION

Justice officials continue to work on issues relating to drug-impaired driving. Suggested talking points are attached for your meeting.

ANNEX

Annex 1: Suggested Talking Points

PREPARED BY

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Director and General Counsel
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ANNEX 1



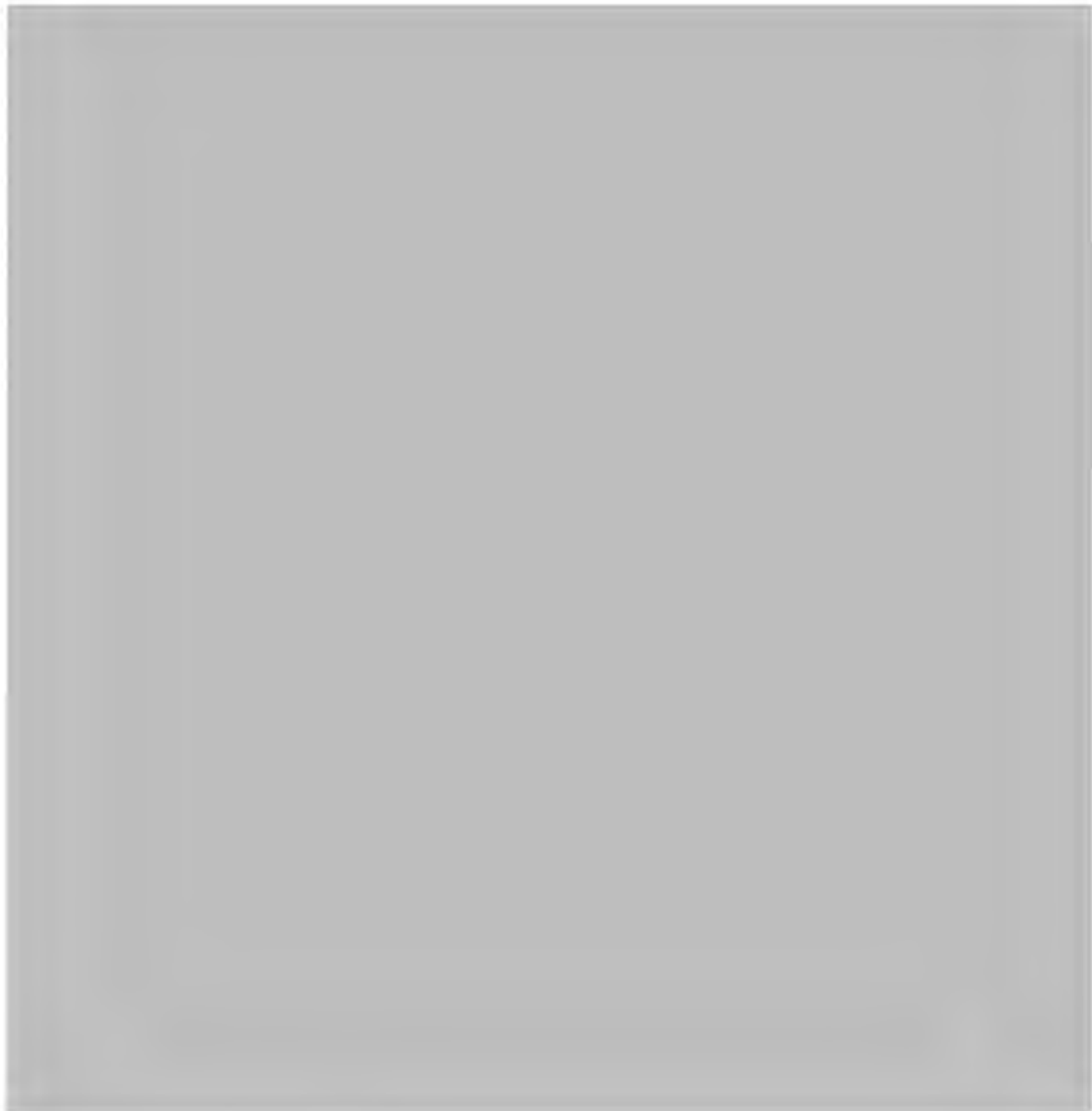
Secret
2016-012472

Talking Points

Meeting with Mothers Against Drunk Driving Canada

- **The Government is committed to developing more effective laws to combat drug-impaired driving as part of its commitment to legalize and strictly regulate the production and possession of marijuana.**
- **My officials, in consultation with the RCMP and Public Safety Canada, are considering measures to more effectively and efficiently combat drug-impaired driving.**
- **The Drugs and Driving Committee of the Canadian Centre of Forensic Science is currently considering legal drug limits and evaluating roadside drug-screening devices.**
- **In developing any legislation to combat drug-impaired driving, the Government will consider the views of law enforcement and other stakeholders such as MADD Canada.**

s.21(1)(a)



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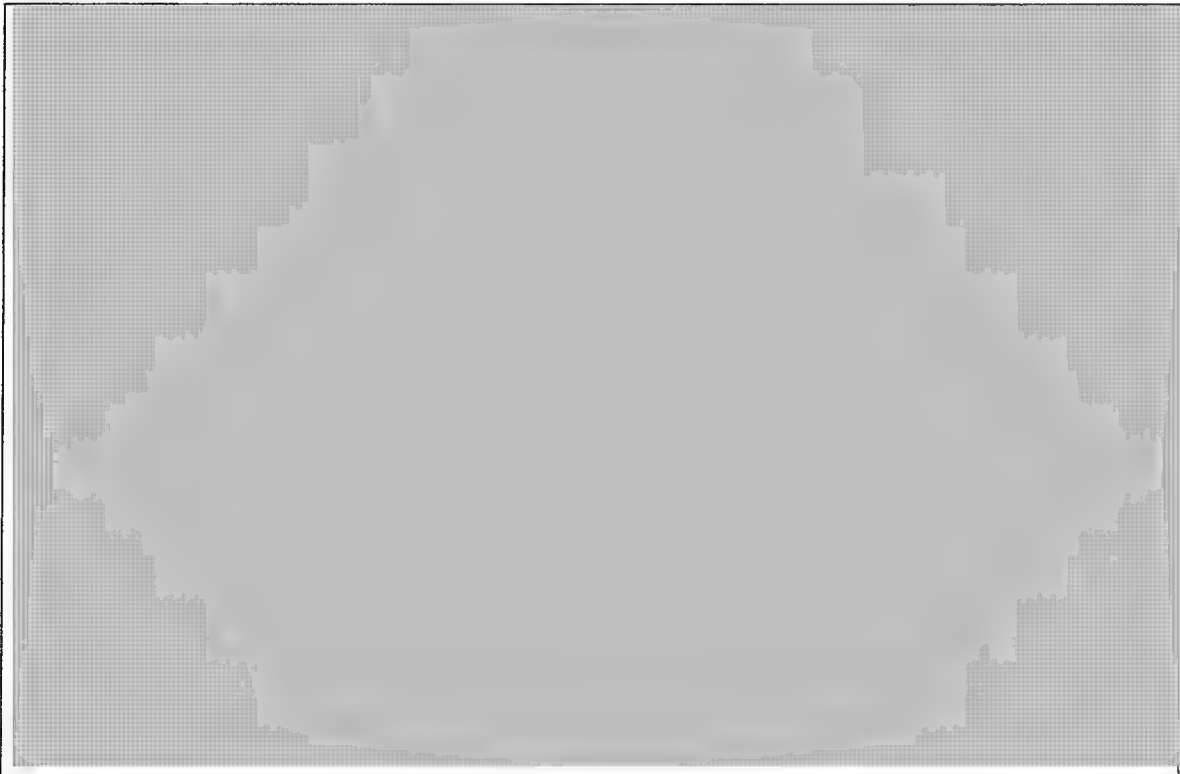
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NUMERO DU DOSSIER/FILE #: 2016-012935
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

s.23

**TITRE/TITLE: *OP v. Canada (Attorney General) et a.l* – 1st MAID application in Ontario post
June 6, 2016**



Soumis par (secteur)/Submitted by:

National Litigation Sector

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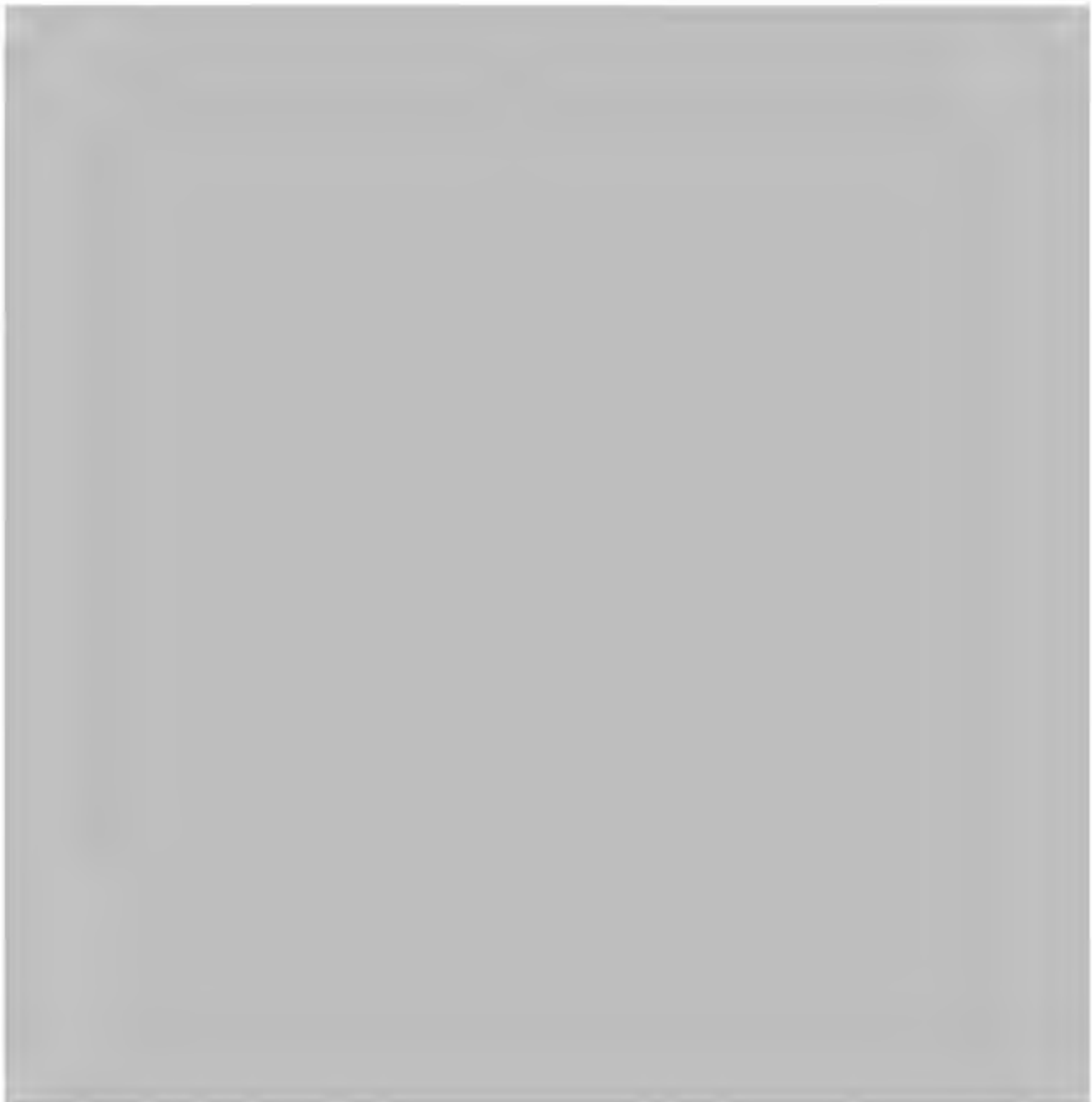
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2016-012935

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MEMORANDUM FOR THE MINISTER

OP v. Canada (Attorney General) et al. – 1st MAID application in Ontario post June 6, 2016



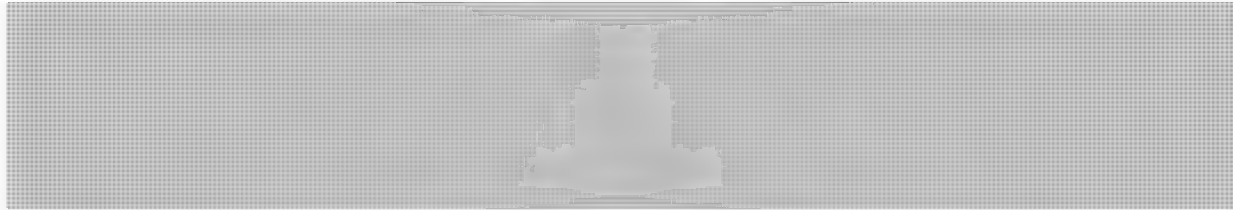
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Department of Justice
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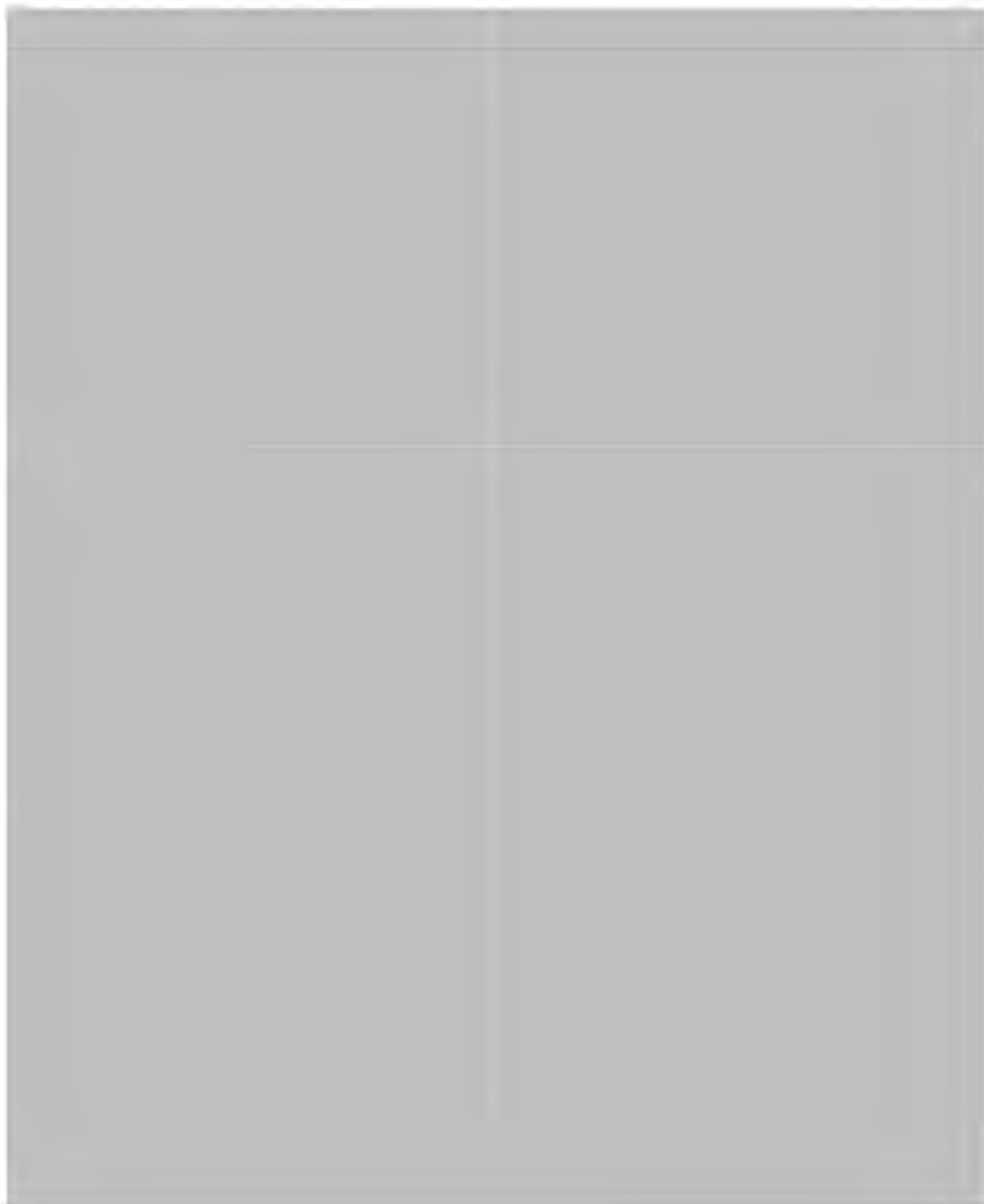
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FOR APPROVAL

NUMÉRO DU DOSSIER/FILE #: 2016-012951

COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

**TITRE/TITLE: Supreme Court of Canada Appointments Process – Engagement Approach
and Documents**



s.69(1)(e)

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69(1)(e)

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**Pages 182 to / à 191
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14, 21(1)(a), 21(1)(b)

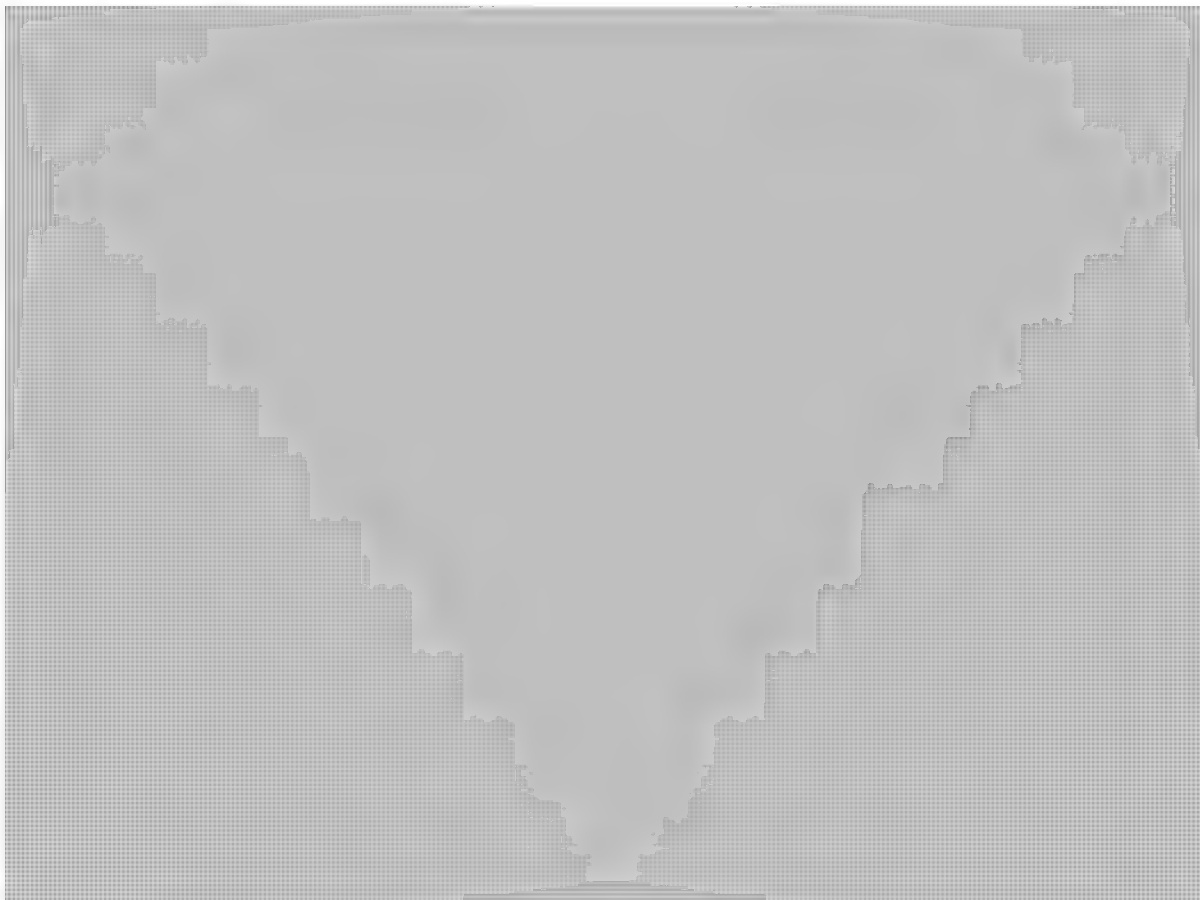
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Confidential
2016-014153

Talking Points
National Inquiry into Missing and Murdered Indigenous
Women and Girls
– Conference call of FPT DMs of Justice – Monday, June
20, 2016, 1 p.m. (EST)

- I wanted to have a quick call to follow-up on the discussion at our recent meeting on the National Inquiry into Missing and Murdered Indigenous Women and Girls.



s.14
s.21(1)(a)
s.21(1)(b)

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14, 21(1)(a), 21(1)(b)

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13(1)(c), 14, 21(1)(a), 21(1)(b)

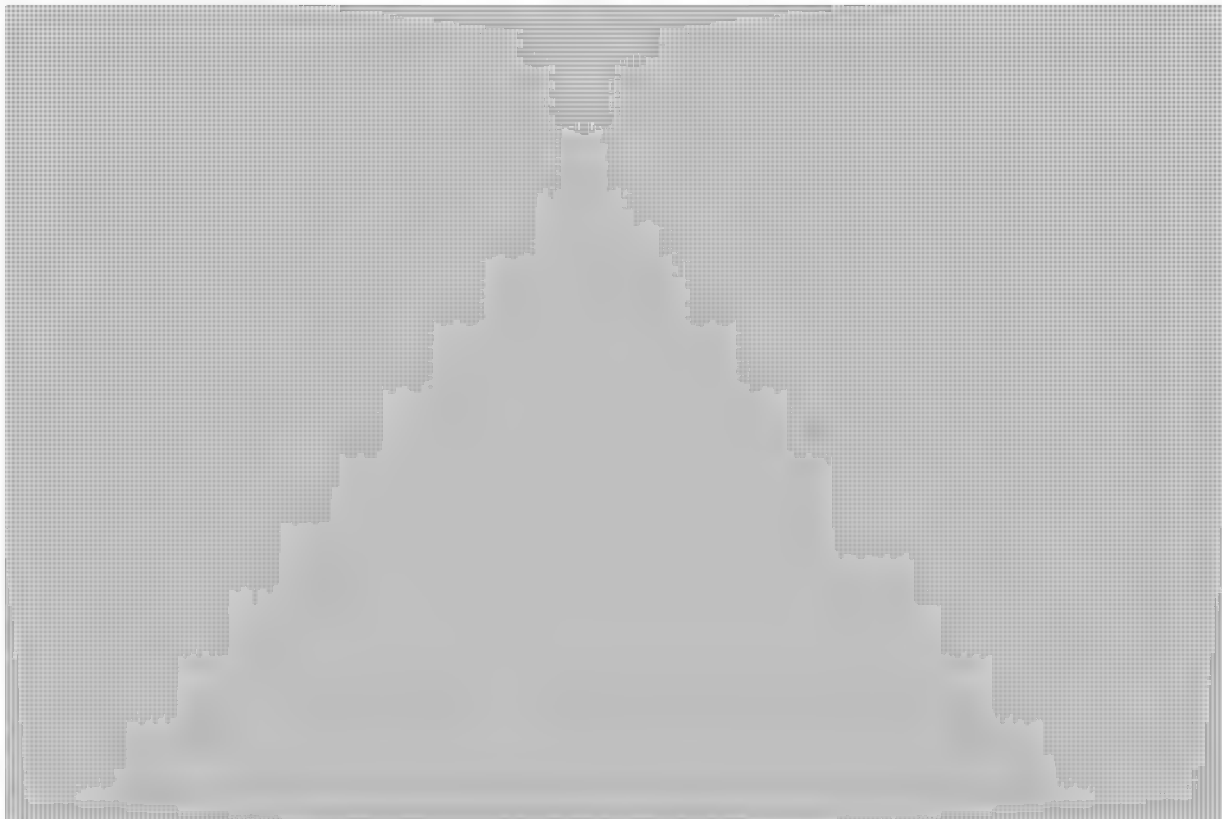
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s.13(1)(c)

s.14

s.21(1)(a)

s.21(1)(b)



PREPARED BY

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613-941-2336

June 17, 2016



CCM#: 2016-014642
Protected B
For Information

MEMORANDUM TO THE DEPUTY MINISTER

National Firearms Association's Constitutional Challenge of Quebec's Firearms Registration Act (FOR INFORMATION)

SUMMARY

- This note seeks to inform you of a constitutional challenge launched before the Quebec Superior Court by the National Firearms Association (NFA) against Quebec's *Firearms Registration Act*.

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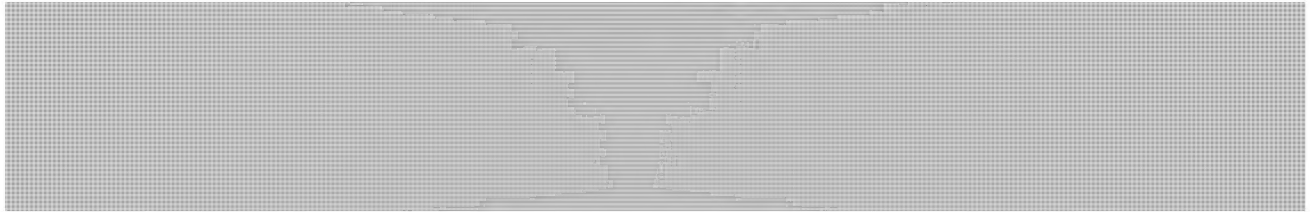
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BACKGROUND

On December 3, 2015, the Government of Quebec tabled Bill n°64, the *Firearms Registration Act* (Bill n°64) that would create a provincial registry for non-restricted firearms (i.e. long-guns). In response, Minister Goodale released a statement indicating that the Federal Government will work with Quebec to determine how it may best support their efforts to create a provincial long-gun registry and reiterating that the Government will not recreate a federal long-gun registry. Further, Quebec's Minister of Public Security, Pierre Moreau, said the Quebec government was in talks with the Federal Government to determine what data might be shared, if any. Since that time, there have been public acknowledgements of meetings between officials on this issue.

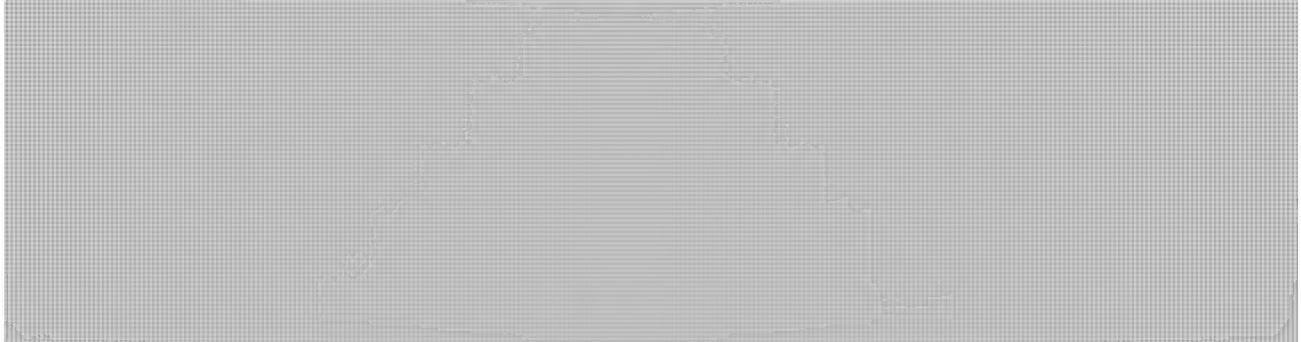
On June 10, 2016, Quebec's National Assembly passed Bill n°64, although it has not yet come into force.

On June 17, 2016, the AGC was served with an application filed before the Quebec Superior Court (QSC) by the National Firearms Association (NFA), seeking an interlocutory injunction, a permanent injunction and declaratory relief. The NFA seeks to block the coming into force and subsequent application of Bill n°64. The NFA's application names the Attorney General of Quebec (AGQ) as a defendant, adds the AGC as mis-en-cause.



s.23

DISCUSSION



RESOURCE IMPLICATIONS

N/A

COMMUNICATION IMPLICATIONS

N/A

NEXT STEPS



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Date: June 28, 2016

EE

CCM#: 2016-014642



Department of Justice
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*sent to Dm Jurek
by Geoff Bickert. —*

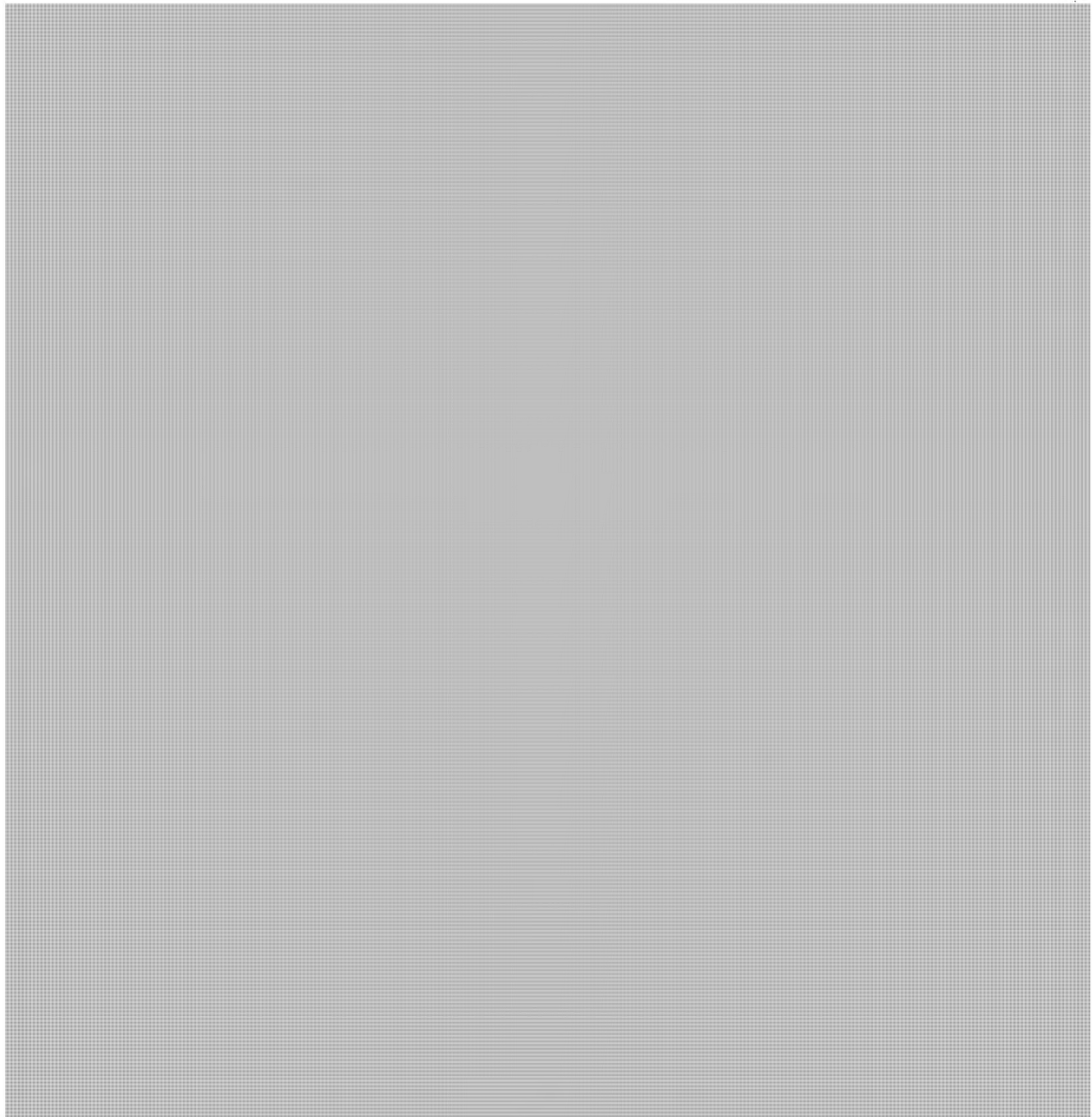
June 19/16

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MEMORANDUM TO THE DEPUTY MINISTER

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UPDATE ON VETERANS LITIGATION (For Information)



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- 4 -

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Approved by:

Pierre Legault, Associate Deputy Minister (613-941-4073)
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CCM#: 2016-014880